

1                                   A bill to be entitled  
 2           An act relating to public records; amending s.  
 3           119.0713, F.S.; providing an exemption from public  
 4           records requirements for specified proprietary  
 5           confidential business information held by an electric  
 6           utility that is subject to chapter 119, F.S., in  
 7           conjunction with a due diligence review of an electric  
 8           project or a project to improve the delivery, cost, or  
 9           diversification of fuel or renewable energy resources;  
 10          providing for the retention of such information for a  
 11          specified time; providing for future review and repeal  
 12          of the exemption; providing a statement of public  
 13          necessity; providing an effective date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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 17           Section 1. Subsection (4) is added to section 119.0713,  
 18 Florida Statutes, to read:

19           119.0713 Local government agency exemptions from  
 20 inspection or copying of public records.—

21           (4) (a) Proprietary confidential business information means  
 22 information, regardless of form or characteristics, which is  
 23 held by an electric utility that is subject to chapter 119, is  
 24 intended to be and is treated by the entity that provided the  
 25 information to the electric utility as private in that the  
 26 disclosure of the information would cause harm to the providing  
 27 entity or its business operations, and has not been disclosed  
 28 unless disclosed pursuant to a statutory provision, an order of

29 a court or administrative body, or private agreement that  
 30 provides that the information will not be released to the  
 31 public. Proprietary confidential business information includes,  
 32 but is not limited to:

- 33 1. Trade secrets.
- 34 2. Internal auditing controls and reports of internal  
 35 auditors.
- 36 3. Security measures, systems, or procedures.
- 37 4. Information concerning bids or other contractual data,  
 38 the disclosure of which would impair the efforts of the electric  
 39 utility to contract for goods or services on favorable terms.
- 40 5. Information relating to competitive interests, the  
 41 disclosure of which would impair the competitive business of the  
 42 provider of the information.

43 (b) Proprietary confidential business information held by  
 44 an electric utility that is subject to chapter 119 in  
 45 conjunction with a due diligence review of an electric project  
 46 as defined in s. 163.01(3)(d) or a project to improve the  
 47 delivery, cost, or diversification of fuel or renewable energy  
 48 resources is confidential and exempt from s. 119.07(1) and s.  
 49 24(a), Art. I of the State Constitution.

50 (c) All proprietary confidential business information  
 51 described in paragraph (b) shall be retained for one year after  
 52 the due diligence review has been completed and the electric  
 53 utility has decided whether or not to participate in the  
 54 project.

55 (d) This subsection is subject to the Open Government  
 56 Sunset Review Act in accordance with s. 119.15, and shall stand

57 repealed on October 2, 2018, unless reviewed and saved from  
 58 repeal through reenactment by the Legislature.

59 Section 2. (1) The Legislature finds that it is a public  
 60 necessity that proprietary confidential business information  
 61 held by an electric utility that is subject to chapter 119,  
 62 Florida Statutes, in conjunction with a due diligence review of  
 63 an electric project as defined in s. 163.01(3)(d), Florida  
 64 Statutes, or a project to improve the delivery, cost, or  
 65 diversification of fuel or renewable energy resources be made  
 66 confidential and exempt from public records requirements. The  
 67 disclosure of such proprietary confidential business  
 68 information, such as trade secrets, internal auditing controls  
 69 and reports, security measures, systems, or procedures, or other  
 70 information relating to competitive interests, could injure the  
 71 provider in the marketplace by giving its competitors detailed  
 72 insights into its financial status and strategic plans, thereby  
 73 putting the provider at a competitive disadvantage. Without this  
 74 exemption, providers might be unwilling to enter into  
 75 discussions with the utility regarding the feasibility of future  
 76 contracting. This could, in turn, limit opportunities the  
 77 utility might otherwise have for finding cost-effective or  
 78 strategic solutions for providing electric service or improving  
 79 the delivery, cost, or diversification of fuel or renewable  
 80 energy. This would put public providers of electric utility  
 81 services at a competitive disadvantage by limiting their ability  
 82 to optimize services to their customers and adversely affecting  
 83 the customers of those utilities by depriving them of  
 84 opportunities for rate reductions or other improvements in

85 services.

86 (2) Proprietary confidential business information derives  
 87 actual or potential independent economic value from not being  
 88 generally known to, and not being readily ascertainable by  
 89 proper means by, other persons who can derive economic value  
 90 from its disclosure or use. A utility, in performing the  
 91 appropriate due diligence review of electric projects or  
 92 projects to improve the delivery, cost, or diversification of  
 93 fuel or renewable energy sources, may need to obtain proprietary  
 94 confidential business information. Without an exemption from  
 95 public records requirements for this information, it becomes a  
 96 public record when received by an electric utility and must be  
 97 disclosed upon request. Disclosure of any propriety confidential  
 98 business information under the public records law would destroy  
 99 the value of that property and cause economic harm not only to  
 100 the entity or person providing the information, but to the  
 101 ratepayers through reduced competition for the provision of  
 102 vital electric utility services.

103 (3) In finding that the public records exemption created  
 104 by this act is a public necessity, the Legislature also finds  
 105 that the public and private harm in disclosing such proprietary  
 106 confidential business information significantly outweighs any  
 107 public benefit derived from disclosure of the information and  
 108 that the exemption created by this act will enhance the ability  
 109 of electric utilities to optimize their performance, thereby  
 110 benefiting the ratepayers.

111 Section 3. This act shall take effect July 1, 2013.