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CS/HB 379

2024 Legislature

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 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for certain financial information
 5 a prospective bidder submits to an agency in order to
 6 prequalify for bidding or for responding to a
 7 solicitation for road or other public works projects;
 8 providing for future legislative review and repeal of
 9 the exemption; providing a statement of public
 10 necessity; providing an effective date.

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

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14 Section 1. Paragraph (c) of subsection (1) of section
 15 119.071, Florida Statutes, is amended to read:

16 119.071 General exemptions from inspection or copying of
 17 public records.—

18 (1) AGENCY ADMINISTRATION.—

19 (c) Any financial statement or other financial information
 20 necessary to verify the financial adequacy of a prospective
 21 bidder which ~~that~~ an agency requires a prospective bidder to
 22 submit in order to prequalify for bidding or for responding to a
 23 solicitation proposal ~~proposal~~ for a road or any other public works
 24 project is exempt from s. 119.07(1) and s. 24(a), Art. I of the
 25 State Constitution. This paragraph is subject to the Open

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26 Government Sunset Review Act in accordance with s. 119.15 and
27 shall stand repealed on October 2, 2029, unless reviewed and
28 saved from repeal through reenactment by the Legislature.

29 Section 2. The Legislature finds that it is a public
30 necessity that financial information necessary to verify the
31 financial adequacy of a prospective bidder which an agency
32 requires a prospective bidder to submit in order to prequalify
33 for bidding or for responding to a solicitation for a road or
34 any other public works project be made exempt from s. 119.07(1),
35 Florida Statutes, and s. 24(a), Article I of the State
36 Constitution. In the prequalification process, a prospective
37 bidder will provide financial statements to the agency, and the
38 agency may request additional financial information in order to
39 verify the financial adequacy of the prospective bidder. The
40 additional financial information often contains sensitive
41 information. The risk of potential disclosure of sensitive
42 financial information defeats the purpose of protections already
43 afforded to financial statements and may have a chilling effect
44 on persons desiring to prequalify or maintain prequalification.
45 The chilling effect may result in a limited pool of potential
46 bidders and, thus, negatively impact the state's ability to
47 receive the best value for road and other public works projects.
48 Additionally, protecting this financial information from
49 disclosure will prevent such information from being used by
50 competitors to gain an unfair advantage against other bidders on

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51 road and other public works projects. Lastly, protecting this
52 financial information from disclosure promotes the free
53 provision of such information to the requesting agency by
54 removing a prospective bidder's concern for attendant risks in
55 doing so. As a result, this exemption promotes the state's
56 interest in ensuring that prospective bidders on road and other
57 public works projects possess the necessary financial resources
58 to complete such projects, many of which involve immense costs
59 and may be complex and of long duration.

60 Section 3. This act shall take effect July 1, 2024.