

House Bill No. 2417

An act relating to public records; providing an exemption from public records requirements for certain telecommunications or cable company records; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

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

Section 1. (1) Any proprietary confidential business information obtained from a telecommunications company or franchised cable company by a local governmental entity relating to imposing fees for occupying the public rights-of-way or assessing the local communications services tax pursuant to s. 202.19, Florida Statutes, or otherwise relating to regulating the public rights-of-way is confidential and exempt from the provisions of s. 119.07(1), Florida Statutes, and Section 24(a), Article I of the State Constitution, may be used only for the purposes of imposing such fees or assessing such tax or regulating such rights-of-way, and may not be used for any other purposes, including, but not limited to, commercial or competitive purposes.

(2) For the purposes of this exemption, "proprietary confidential business information" includes any proprietary or otherwise confidential information or documentation, including maps, plans, billing and payment records, trade secrets, or other information relating to the provision of or facilities for communications service that is intended to be and is treated by the company as confidential and is not otherwise publicly available to the same extent and in the same format as requested by the local governmental entity. Proprietary confidential business information does not include schematics indicating the location of facilities for a specific site that are provided in the normal course of the local governmental entity's permitting process.

(3) Nothing in this exemption expands the information or documentation that a local governmental entity may properly request under applicable law pursuant to the imposition of fees for occupying the rights-of-way or the local communication services tax or the regulation of its public rights-of-way.

(4) Any information in the possession of a local government entity which consists of maps, plans, schematics, diagrams, or other engineering data relating to the exact location and capacity of facilities for the provision of communications services by the local government entity shall be exempt from the provisions of s. 119.07(1), and Section 24(a), Article I of the State Constitution. Such information shall remain exempt only for a period of sixty days after completion of the construction of the communications services facilities.

(5) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 1, 2005, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that proprietary confidential business information be kept confidential when held by a local governmental entity pursuant to the imposition of fees for occupying the public rights-of-way or the assessment of the local communications tax or the regulation of the public rights-of-way. Disclosure of proprietary confidential business information in a local governmental entity's possession would adversely affect the business interests of telecommunications companies and franchised cable companies providing the information by harming them in the marketplace and compromising the security of the communications network. Further, disclosure of such proprietary confidential business information would impair competition in the communications industry. Disclosure of data prepared by or in the possession of a local government which reveals the type and size of facilities for providing telecommunications services creates a competitive disadvantage for the local government and an unfair advantage for its competitors. Competitors can use such information to impair full and fair competition and impede competition in the telecommunications marketplace to the disadvantage of the consumers of telecommunications services. Thus, the public and private harm in disclosing this information significantly outweighs any public benefit derived from disclosure, and the public's ability to scrutinize and monitor agency action is not diminished by non disclosure of this information.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 19, 2000.

Filed in Office Secretary of State June 19, 2000.