

CHAPTER 2014-27

Committee Substitute for House Bill No. 115

An act relating to public meetings; amending s. 1004.28, F.S.; providing an exemption from public meeting requirements for any portion of a meeting of the board of directors of a university direct-support organization, or of the executive committee or other committees of such board, at which any proposal seeking research funding from the organization or a plan or program for either initiating or supporting research is discussed; providing for review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (5) of section 1004.28, Florida Statutes, is amended to read:

1004.28 Direct-support organizations; use of property; board of directors; activities; audit; facilities.—

(5) ANNUAL AUDIT; PUBLIC RECORDS EXEMPTION; PUBLIC MEETINGS EXEMPTION.—

(a) Each direct-support organization shall provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General pursuant to s. 11.45(8) and by the university board of trustees. The annual audit report shall be submitted, within 9 months after the end of the fiscal year, to the Auditor General and the Board of Governors for review. The Board of Governors, the university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability shall have the authority to require and receive from the organization or from its independent auditor any records relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report.

(b) All records of the organization other than the auditor's report, management letter, and any supplemental data requested by the Board of Governors, the university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability shall be confidential and exempt from ~~the provisions of~~ s. 119.07(1).

(c) Any portion of a meeting of the board of directors of the organization, or of the executive committee or other committees of such board, at which any proposal seeking research funding from the organization or a plan or program for either initiating or supporting research is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. This paragraph

is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that any portion of a meeting of the board of directors of a direct-support organization established under s. 1004.28, Florida Statutes, or of the executive committee or other committees of such board, at which any proposal seeking research funding from the organization or a plan or program for either initiating or supporting research is discussed should be held exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution. The resources raised by direct-support organizations are frequently used to initiate, develop, and fund plans and programs for research that routinely contain sensitive proprietary information, including university-connected research projects, which provide valuable opportunities for faculty and students and may lead to future commercial applications. This activity requires the direct-support organization to develop research strategies and evaluate proposals for research grants that routinely contain sensitive or proprietary information, including specific research approaches and targets of investigation, the disclosure of which could injure those conducting the research. Maintaining the confidentiality of research strategies, plans, and proposals is a hallmark of a responsible funding process, is practiced by the National Science Foundation and the National Institutes of Health, and allows for candid exchanges among reviewers. The state has recognized these realities by expressly making most of the records of direct-support organizations confidential and exempt from the state's public records requirements, including proposals seeking research funding. Failure to close meetings in which these activities are discussed would significantly undermine the confidentiality of the strategies, plans, and proposals themselves. Without the exemption from public meeting requirements, the release during a public meeting of a proposal seeking research funding from the direct-support organization or a plan or program for either initiating or supporting research would defeat the purpose of the public records exemption. It is therefore the finding of the Legislature that the exemption from public meeting requirements is a public necessity.

Section 3. This act shall take effect October 1, 2014.

Approved by the Governor May 12, 2014.

Filed in Office Secretary of State May 12, 2014.