

Department of Planning and Budget 2006 Fiscal Impact Statement

1. Bill Number SB76

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

2. Patron Houck

3. Committee Passed Both Houses

4. Title Freedom of Information Act (FOIA); disclosure of procurement records under the PPTA and PPEA.

5. Summary/Purpose:

Revises the current FOIA exemption for records submitted by a private entity to a responsible public entity under the Public-Private Transportation Act (PPTA) and Public-Private Education Facilities and Infrastructure Act (PPEA) and formalizes the earmarking process or the protection of trade secrets, financial records, and other records submitted by a private entity, by requiring a written request for an exclusion from disclosure by the private entity and for a written determination by the responsible public entity that such records will be protected from disclosure under certain circumstances. The bill also amends the PPTA and PPEA to require a public entity to post all accepted conceptual proposals, whether solicited or not.

The required posting for responsible public entities that are state agencies, departments, and institutions, shall be on eVA (the Department of General Service's web-based electronic procurement program) and for responsible public entities that are local public bodies, posting shall be on the responsible public entity's website or by publication, in a newspaper of general circulation in the area in which the contract is to be performed, of a summary of the proposals and the location where copies of the proposals are available for public inspection. Local public bodies may also post on eVA, in the discretion of the local responsible public entity. The bill also requires at least one copy of the proposals shall be made available for public inspection. The bill provides that nothing shall be construed to prohibit the posting of the conceptual proposals by additional means deemed appropriate by the responsible public entity so as to provide maximum notice to the public of the opportunity to inspect the proposals.

The bill also requires the responsible public entity to provide an opportunity for public comment 30 days before the execution of an interim or comprehensive agreement. The bill provides that once the process of bargaining of all phases or aspects of an interim or comprehensive agreement is complete, but before an interim or a comprehensive agreement is entered into, a responsible public entity shall post the proposed agreement. Once an interim or comprehensive agreement has been executed, all procurement records, excluding

trade secrets, financial information, and cost estimates, are available to the public upon request.

The bill is a recommendation of the Freedom of Information Advisory Council.

- 6. No Fiscal Impact.** See Item 8.
- 7. Budget amendment necessary:** No
- 8. Fiscal implications:** Any administrative costs to post the proposals should be minimal. Agencies should be able to absorb any additional costs.
- 9. Specific agency or political subdivisions affected:** All public bodies
- 10. Technical amendment necessary:** No
- 11. Other comments:** None

Date: 03/06/06 / amk

Document:

cc: Secretary of Administration