CUA-01 CONFIDENTIAL PUBLIC WORKS ESTIMATES
STAFF ANALYSIS

PROPOSAL INFORMATION			
SUBMITTING COUNTY:	Hernando County		
SPONSOR CONTACT:	Dominique Holmes, Director of Communications & Government Affairs; dholmes@hernandocounty.us; 352-277-1069		
FAC COMMITTEE:	Community & Urban Affairs (CUA)	**CROSS-CLAIMS:**	N/A
FAC STAFF:	J. Scala	**DATE:**	October 19, 2026

This staff analysis is based on the proposal as submitted and does not reflect an adopted position of the Florida Association of Counties.

POLICY PROPOSAL:

Support legislation extending to counties and municipalities the temporary public-records protections currently provided to the Florida Department of Transportation for official project cost estimates and bid-analysis and monitoring systems used in public works procurement.

I. SUMMARY:

Hernando County asks FAC to support extending to counties and municipalities two temporary public records protections the Florida Department of Transportation (FDOT) has held for its public works procurements since 1983 contained in s. 337.168, F.S.:

1. Confidentiality of the official cost estimate until contract execution or project abandonment, and;
2. Exemption of the bid analysis and monitoring system

Local governments conduct the same competitive procurements under s. 255.20 and s. 336.41, F.S., but no exemption reaches their own estimates or bid-analysis tools; s. 119.071(1)(b), F.S., protects only the bids received, and only briefly.

As a new public records exemption, the implementing bill must stand alone, state its public necessity with specificity, and pass each chamber by a two-thirds vote (Art. I, s. 24(c), Fla. Const.), and the exemption would sunset in five years under the Open Government Sunset Review Act.

The proposal is protective of home rule and is not an unfunded mandate.

II. PRESENT SITUATION:

Public Records Law

Article I, s. 24(a) of the Florida Constitution guarantees every person the right to inspect or copy public records of counties, municipalities, and districts, and s. 119.07(1), F.S., imposes the corresponding inspection, copying, and redaction duties on local records custodians. Exemptions may be created only by general law that states with specificity the public necessity justifying the exemption, is no broader than necessary, relates to one subject, and passes each house by a two-thirds vote. A new exemption stands repealed on October 2 of its fifth year unless reenacted, and may be maintained only if it serves an identifiable public purpose sufficiently compelling to override the strong public policy of open government (s. 119.15(3), (6)(b), F.S.).

Current FDOT Exemptions
Since 1983, s. 337.168, F.S., has provided FDOT two procurement-integrity protections: (1) a document or electronic file revealing the department's official cost estimate of a project is confidential and exempt until the contract has been executed or the project is no longer under active consideration, and (2) the department's bid analysis and monitoring system — documentation, input, computer processes and programs, data files, and output — is exempt, while actual source documents remain public unless otherwise exempted. The section predates Art. I, s. 24 and the OGSR regime and carries no repeal date; access limits in effect on July 1, 1993, remain in force until repealed. Chapter 2023-197, Laws of Florida, narrowed the section by repealing a former bidder-identity exemption.

Local Public Works Processes
Counties and municipalities run parallel competitive processes without the parallel protection. Section 255.20(1), F.S., requires local governments to competitively award public construction works estimated above $300,000 ($75,000 for electrical work), and s. 336.41, F.S., requires competitive bids for county road and bridge construction funded from the 80-percent surplus constitutional gas tax.

On the records side, s. 119.071(1)(b), F.S., exempts sealed bids, proposals, and replies received by any agency — including a county — but only until notice of an intended decision or 30 days after opening, whichever is earlier, and s. 119.071(1)(c), F.S., exempts bidder financial prequalification information for road and other public works projects. No exemption reaches the local government's own official cost estimate or its bid-analysis tools: once the record exists, it is producible on request at any point, including before letting and during post-bid negotiations when only one bid is received or bids exceed available funding.

III. EFFECT OF THE PROPOSAL:

The proposal creates a new public records exemption extending both s. 337.168 protections to counties and municipalities: the official cost estimate of a public works project would be confidential and exempt until the contract is executed or the project is

no longer under active consideration, and the local government's bid analysis and monitoring system would be exempt.

As drafted for committee review, the implementing bill adds subsection (7) to s. 119.0713, F.S., the chapter 119 section consolidating local government exemptions. The draft covers counties and municipalities as submitted and defines “public works project” as the construction or improvement of a public building, structure, or other public construction works of the kind described in s. 255.20(1), F.S., expressly including roadway, building, and utility construction, without importing that section's dollar thresholds.

This proposal creates a new exemption, the implementing bill must:

- contain only the exemption and related enforcement provisions,
- relate to one subject,
- state with specificity the public necessity justifying the exemption,
- be no broader than necessary,
- pass each chamber by a two-thirds vote (Art. I, s. 24(c), Fla. Const.).

The bill must carry the OGSR statements and would stand repealed on October 2 of its fifth year after its passage unless reviewed and reenacted.

IV. COUNTY IMPACT:

- Counties may temporarily withhold the official estimate and protected bid-analysis materials until contract execution or project abandonment, shielding the negotiating benchmark in competitive lettings, single-bid situations, and over-budget negotiations.
- County custodians must treat covered records as confidential and exempt, withholding and redaction duties under s. 119.07(1)(d)–(e), F.S., and must track the release triggers (contract execution; project no longer under active consideration) so records open on time.
- Counties must prepare for modest records-management updates: redaction protocols, custodian training, and file conventions separating the official estimate from public solicitation documents.
- Applies equally to all 67 counties: every county procures public works under s. 255.20, F.S. as well as all municipalities.

Protective of Home Rule: Yes — the proposal expands a protection available to local governments, imposes no preemption, and restricts no county authority. The proposal places counties on the same procurement footing the state provides itself.

V. FISCAL IMPACT:

- No effect on county or state revenues; no Revenue Estimating Conference impact estimate is expected for an exemption of this type.

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- Indeterminate but potentially material expenditure benefit: shielding the estimate until award can preserve competitive tension, reduce clustering of bids around the government's benchmark, and strengthen the owner's position in single-bid and over-budget negotiations. Magnitude depends on project volume and bid behavior.
- Insignificant administrative cost: withholding and redaction are request-driven and absorbed within processes custodians already operate for the existing s. 119.071 exemptions.

Unfunded Mandate (Art. VII, s. 18, Fla. Const.): No — the proposal does not reduce county or municipal revenue-raising authority or the percentage of shared state taxes, and the administrative cost of maintaining the exemption is insignificant.

VI. LEGISLATIVE & FAC HISTORY:

- Enacted precedent: s. 337.168, F.S., has protected FDOT's official estimates and bid analysis and monitoring system since 1983 (s. 5, ch. 83-4, Laws of Florida); it predates Art. I, s. 24 and the OGSR regime and carries no repeal date. Chapter 2023-197, Laws of Florida, narrowed the section by repealing its former bidder-identity exemption.
- Adjacent enacted precedent reaching local records: s. 119.071(1)(b), F.S. (sealed bids and proposals, exempt until intended decision or 30 days after opening); s. 119.071(1)(c), F.S. (bidder financial prequalification information for road and other public works projects; OGSR repeal October 2, 2029); s. 119.071(3)(b), F.S. (building plans of agency-owned structures). The Legislature has repeatedly accepted procurement-integrity exemptions that apply to local governments.
- Prior vehicles: none identified.
- Past FAC statements: none on this subject. Adjacent program items show committee appetite in the transparency and procurement space.
- Guiding Principles coverage:
    - FTA—Administration B (Public Notice and Procurement): FAC “supports competitive, efficient procurement procedures that protect public resources” and streamlines delivery of county projects; and
    - FTA—Government Accountability A (Transparency and Fiscal Reporting): FAC “supports transparency requirements and public-records policies that provide residents with clear information without duplicating existing reporting or undermining efficient service delivery.”

BoCC action: Hernando County BoCC has voted to support the proposal.

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