



January 26, 2021

Senate Transportation Committee
410 Knott Building
4040 S. Monroe Street
Tallahassee, FL 32399-1100

Re: SB 7004 OGSR/Financial Information/Guarantor of a
Private Entity Applicant

I write on behalf of the First Amendment Foundation to express our opposition to SB 7004, exempting financial information of a private entity and a private entity's guarantor required by the Department of Transportation as part of an application for assistance from the State Infrastructure Bank (SIB). This bill unnecessarily compromises the constitutional right of access and government accountability.

While the proposed exemption would apply to private entities, such entities are applying to use public funds. The public has a right to know how that money will be used and whether the requesting entity and its guarantor are financially sound. Without access to this information, the public is in the dark as to whether the private companies have the financial wherewithal to complete Department of Transportation projects.

The constitutionally required public necessity statement to expand the exemption for a private guarantor's information is based upon speculation. The statement provides that access to such financial information could disadvantage guarantors in the marketplace and might discourage guarantors from providing guarantees to private companies applying to the SIB. Article I, § 24(c) of the Florida Constitution requires that exemptions state with specificity the reasons justifying the exemption; this speculative conjecture fails to meet the constitutional standard.

In 2016, SB 196 was based on the same speculation that private entities may be discouraged from applying to the SIB if their information was made public. Yet, Department of Transportation records show that less private applicants sought funding from the SIB in the three years after the exemption was enacted compared to the three years before the exemption.

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Moreover, access to the information of companies seeking public funds outweighs the unsubstantiated harm stated in this bill. Public business, and information of entities seek public funds, should be accessible to the public.

For these reasons, FAF respectfully requests SB 7004 be withdrawn for further consideration. Please let us know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Pamela C. Marsh". The signature is fluid and cursive, with a long horizontal flourish at the end.

Pamela C. Marsh

Cc: The Honorable Wilton Simpson, President, Senate President
Mr. Jim Baltzelle, Associated Press, Chair, First Amendment Foundation
Mr. Samuel Morley, General Counsel, Florida Press Association
Ms. Lisa Nellessen Savage, Chair, Florida Society of News Editors