Florida Senate - 2005

By Senator Argenziano

3-699B-05

1	A bill to be entitled
2	An act relating to public records and meetings;
3	exempting trade secrets held by state agencies
4	from public-records requirements; requiring
5	that a written declaration be submitted to the
6	state agency verifying that the information is
7	a trade secret; specifying requirements for
8	such declaration; exempting any portion of a
9	meeting at which information concerning a trade
10	secret is discussed from public-meetings
11	requirements; providing for application of the
12	exemptions; providing for future repeal and
13	legislative review under the Open Government
14	Sunset Review Act of 1995; providing a
15	statement of public necessity; providing an
16	effective date.
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18	Be It Enacted by the Legislature of the State of Florida:
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20	Section 1. <u>Confidentiality of trade secrets held by</u>
21	state agencies
22	(1) A trade secret, as defined by section 688.002 or
23	section 812.081, Florida Statutes, which is held by a state
24	agency is exempt from section 119.07(1), Florida Statutes, and
25	Section 24(a), Article I of the State Constitution if:
26	(a) The proprietor of the trade secret, or the
27	authorized officer, employee, or agent of the proprietor,
28	submits to the state agency a written declaration, verified as
29	provided in section 92.525, Florida Statutes, which:
30	1. Identifies the trade secret;
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Florida Senate - 2005 3-699B-05

1	2. Certifies that the identified information is a
2	trade secret as defined by section 688.002 or section 812.081,
3	<u>Florida Statutes;</u>
4	3. Certifies that the identified information derives
5	independent economic value, actual or potential, from not
6	being generally known to, and not being readily ascertainable
7	by proper means by, other persons who can obtain economic
8	value from its disclosure or use;
9	4. Certifies that the identified information is the
10	subject of efforts of the proprietor to maintain its secrecy;
11	and
12	5. Certifies that the identified information is not
13	otherwise readily ascertainable or publicly available from any
14	other source; and
15	(b) The information is not readily ascertainable or
16	publicly available by proper means by other persons from any
17	other source.
18	(2) That portion of a meeting at which a trade secret
19	that is exempt from public disclosure pursuant to subsection
20	(1) is reviewed or discussed is exempt from section 286.011,
21	Florida Statutes, and Section 24(b), Article I of the State
22	Constitution.
23	(3) The exemptions provided in this section apply to
24	all trade secrets held by a state agency before, on, or after
25	<u>October 1, 2005.</u>
26	(4) This section is subject to the Open Government
27	Sunset Review Act of 1995 in accordance with section 119.15,
28	Florida Statutes, and shall stand repealed on October 2, 2010,
29	unless reviewed and saved from repeal through reenactment by
	the Legislature.
30	<u>the Legistature.</u>

Florida Senate - 2005 3-699B-05

1	Section 2. The Legislature finds that it is a public
2	necessity that a trade secret, as defined by section 688.002
3	or section 821.081, Florida Statutes, which is held by a state
4	agency as provided in section 1 be made exempt from public
5	<u>disclosure. A trade secret derives independent economic value,</u>
б	actual or potential, from not being generally known to, and
7	not being readily ascertainable by proper means by, other
8	persons who can obtain economic value from its disclosure or
9	use. A state agency, in performing its lawful responsibilities
10	and duties, including obtaining bids for agency purchases or
11	regulating businesses, may need to obtain information that is
12	a trade secret from the proprietor. Without an exemption from
13	public-records requirements for a trade secret held by a state
14	agency, that trade secret becomes a public record when
15	received by the agency and must be divulged upon request.
16	Divulgence of any trade secret under public-records or
17	public-meetings laws would destroy the value of that property
18	to the proprietor, causing a financial loss not only to the
19	proprietor but also to the state due to loss of tax revenue
20	and employment opportunities for state residents. Release of
21	that information would give business competitors an unfair
22	advantage and weaken the position of the proprietor of the
23	trade secret in the marketplace. In addition, without
24	protecting information concerning a trade secret during
25	meetings at which the information is discussed, competitors
26	and other persons may attend those meetings and discover the
27	trade secret. Thus, the Legislature finds that it is a public
28	necessity that a trade secret held by a state agency be made
29	exempt from the public-records and public-meetings
30	requirements of this state.
31	Section 3. This act shall take effect October 1, 2005.

SB 1142

Florida Senate - 2005 3-699B-05 SB 1142

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2	SENATE SUMMARY
3	Provides that a trade secret held by a state agency is exempt from disclosure under the public-records law if
4 the proprietor of the trade secret verifies in a	the proprietor of the trade secret verifies in a written declaration to the agency that the information is a trade
5	secret. Provides that any portion of a meeting at which information concerning a trade secret is discussed is
6	exempt from public-meetings requirements. Provides for future repeal and legislative review of the exemptions
7	under the Open Government Sunset Review Act of 1995.
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