

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Oversight, Transparency &
2 Administration Subcommittee

3 Representative Massullo offered the following:

4

5 **Amendment**

6 Remove lines 29-100 and insert:

7 2. Financial information related to any contract or
8 agreement, or an addendum thereto, with an agency. Such
9 financial information includes the amount of money paid, any
10 payment structure or plan, expenditures, incentives, bonuses,
11 fees, and penalties.

12 (2) PUBLIC RECORD EXEMPTION.—A trade secret held by an
13 agency is confidential and exempt from s. 119.07(1) and s.
14 24(a), Art. I of the State Constitution.

15 (3) NOTICE OF TRADE SECRET.—

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16 (a) If a person who submits records to an agency claims
17 that such submission contains a trade secret, such person shall
18 submit to the agency a notice of trade secret when such records
19 are submitted to the agency. Failure to submit such notice
20 constitutes a waiver of any claim by such person that the record
21 contains a trade secret. The notice must provide the name,
22 telephone number, and mailing address of the person claiming the
23 record contains a trade secret. Such person is responsible for
24 updating his or her contact information with the agency.

25 (b) Each page of a record or specific portion of a record
26 that contains a trade secret must be clearly marked with the
27 words "trade secret."

28 (c) In submitting a notice of trade secret to the agency,
29 the submitting party shall verify to the agency through a
30 written declaration in the manner provided in s. 92.525 the
31 following:

32
33 [...I have/my company has...] read the definition of a
34 trade secret in s. 688.01, Florida Statutes, and [...I
35 believe/my company believes...] the information contained in
36 this record is a trade secret as defined in s. 688.01, Florida
37 Statutes.

38 [...I have/my company has...] taken measures to prevent the
39 disclosure of the record or specific portion of a record claimed
40 to be a trade secret to anyone other than those who have been

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41 selected to have access for limited purposes, and [...I
42 intend/my company intends...] to continue to take such measures.

43 The record or specific portion of a record claimed to be a
44 trade secret is not, and has not been, reasonably obtainable
45 without [...my/our...] consent by other persons by use of
46 legitimate means.

47 The record or specific portion of a record claimed to be a
48 trade secret is not publicly available elsewhere.

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50 (4) RESPONSE TO A REQUEST FOR PUBLIC RECORDS.-

51 (a) If an agency receives a request for a public record
52 and the requested record or a specific portion of the record is
53 marked and verified as containing a trade secret, the agency
54 shall, as soon as practical, notify the person who requested the
55 record or specific portion of the record that is marked and
56 verified as containing a trade secret. The notice must inform
57 the person requesting such record of the process outlined in
58 paragraph (b) and direct such person to respond to the notice if
59 he or she desires access to the record marked and verified as
60 containing a trade secret.

61 (b) If the person requesting the record indicates he or
62 she desires access to the requested record or a specific portion
63 of the record that has been marked and verified as containing a
64 trade secret, the agency shall promptly notify the person who
65 verified the record, or specific portion of the record, as

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66 containing a trade secret of the request. The notice shall be
67 sent to the address provided to the agency and must inform such
68 person that, in order to avoid disclosure of the trade secret,
69 the person must file an action in circuit court within 30 days
70 after the date of the notice seeking a declaratory judgment that
71 the record in question contains a trade secret and an order
72 barring public disclosure of the record. If an action is filed,
73 the agency must notify the person who requested the record.

74 (c) The petition or other initial pleading shall be served
75 on the agency.

76 (d)1. Whenever an action is filed pursuant to this
77 section, the court shall set an immediate hearing, giving the
78 case priority over other pending cases.

79 2. If a court determines that the record in question does
80 not contain a trade secret, the agency must make the record
81 available to the requester within 48 hours, unless otherwise
82 provided by the court issuing such order, or unless the
83 appellate court issues a stay order within the 48-hour period.

84 3. Upon service of a petition or other initial pleading in
85 an action brought under this section, the agency may not
86 transfer custody, alter, destroy, or otherwise dispose of the
87 record sought until the court makes a determination regarding
88 whether the record contains a trade secret.

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91 (e) The agency may not release the record pending the
92 outcome of the legal action. Failure to file an action within 30
93 days after the date of the notice constitutes a waiver of any
94 claim of confidentiality, and the agency shall release the
95 record as requested.

96 (f) Any action under this subsection must be brought in
97 the county in which the agency in possession of the record is
98 headquartered.

99 (g) If the person who requested the record or specific
100 portion of the record marked and verified as containing a trade
101 secret notifies the agency that he or she no longer desires
102 access to such record, the agency shall notify the person who
103 verified the record or specific portion of the record as
104 containing a trade secret that the person requesting the record
105 no longer desires access. The agency must notify the person who
106 verified such record that the request has been withdrawn and
107 that obtaining a declaratory judgment is no longer necessary. If
108 the records request is withdrawn prior to a judicial finding,
109 the agency must continue to maintain the confidentiality of such
110 record.

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