

By the Committee on Economic Development & International Trade and Representatives Prieguez, Wilson, Meadows, Betancourt, Atwater, Benson, Carassas, Mahon, Pickens, Kilmer and Harper

1                                   A bill to be entitled  
 2           An act relating to public records; amending s.  
 3           288.1066, F.S.; extending the scheduled repeal  
 4           of a public records exemption for specified  
 5           business information received under the  
 6           qualified defense contractor and qualified  
 7           target industry tax refund programs;  
 8           eliminating obsolete references to the  
 9           Department of Commerce; making the listing of  
 10          tax information covered by the public records  
 11          exemption consistent with the program's terms  
 12          and conditions; providing confidentiality for  
 13          information concerning taxes paid by businesses  
 14          while participating in the programs; providing  
 15          confidentiality for information concerning jobs  
 16          created and wages paid by such businesses;  
 17          providing for future repeal and legislative  
 18          review; providing a statement of public  
 19          necessity; providing an effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23           Section 1. Section 288.1066, Florida Statutes, is  
 24 amended to read:

25           288.1066 Confidentiality of records.--

26           (1) The following information when received by ~~the~~  
 27 ~~Department of Commerce;~~ the Office of Tourism, Trade, and  
 28 Economic Development; Enterprise Florida, Inc.; or county or  
 29 municipal governmental entities and their employees pursuant  
 30 to the qualified defense contractor tax refund program as  
 31 required by s. 288.1045 is confidential and exempt from the

1 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
2 Constitution for a period not to exceed the duration of the  
3 tax refund agreement or 10 years, whichever is earlier:  
4 (a) The applicant's federal employer identification  
5 number and Florida sales tax registration number.  
6 (b) The percentage of the applicant's gross receipts  
7 derived from Department of Defense contracts during the 5  
8 taxable years immediately preceding the date the application  
9 is submitted.  
10 (c) The amount of:  
11 1. Taxes on sales, use, and other transactions paid  
12 pursuant to chapter 212;  
13 2. Corporate income taxes paid pursuant to chapter  
14 220;  
15 3. Intangible personal property taxes paid pursuant to  
16 chapter 199;  
17 4. Emergency excise taxes paid pursuant to chapter  
18 221;  
19 5. Excise taxes on documents paid pursuant to chapter  
20 201;and  
21 ~~6.5.~~ Ad valorem taxes paid  
22  
23 during the 5 fiscal years immediately preceding the date of  
24 the application, and the projected amounts of such taxes to be  
25 due in the 3 fiscal years immediately following the date of  
26 the application.  
27 (d) The amount of the taxes specified in paragraph (c)  
28 which the qualified applicant paid under the tax refund  
29 agreement and for which the qualified applicant seeks a tax  
30 refund under s. 288.1045.  
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1           ~~(d)~~ (e) Any trade secret information as defined in s.  
2 812.081 contained within any statement concerning the  
3 applicant's need for tax refunds or concerning the proposed  
4 uses of such refunds by the applicant.

5           (f) Data concerning the number of jobs created and the  
6 wages paid for those jobs by a qualified applicant which is  
7 submitted as part of a claim for a tax refund under s.  
8 288.1045 and as evidence of the achievement of performance  
9 items contained in the tax refund agreement.

10           (2) The following information when received by ~~the~~  
11 ~~Department of Commerce;~~ the Office of Tourism, Trade, and  
12 Economic Development; Enterprise Florida, Inc.; or county or  
13 municipal governmental entities and their employees pursuant  
14 to the qualified target industry tax refund program as  
15 required by s. 288.106 is confidential and exempt from the  
16 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
17 Constitution for a period not to exceed the duration of the  
18 tax refund agreement or 10 years, whichever is earlier:

19           (a) The applicant's federal employer identification  
20 number and Florida sales tax registration number.

21           (b) Any trade secret information as defined in s.  
22 812.081 contained within any description of the type of  
23 business activity or product covered by the project.

24           (c) The anticipated wages of those jobs projected to  
25 be created by the project.

26           (d) The amount of:

27           1. Taxes on sales, use, and other transactions paid  
28 pursuant to chapter 212;

29           2. Corporate income taxes paid pursuant to chapter  
30 220;

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1           3. Intangible personal property taxes paid pursuant to  
2 chapter 199;  
3           4. Emergency excise taxes paid pursuant to chapter  
4 221;  
5           5. Insurance premium taxes paid pursuant to s.  
6 624.509;  
7           6. Excise taxes on documents paid pursuant to chapter  
8 201;and  
9           ~~7.5.~~ Ad valorem taxes paid  
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11 during the 5 fiscal years immediately preceding the date of  
12 the application, and the projected amounts of such taxes to be  
13 due in the 3 fiscal years immediately following the date of  
14 the application.  
15           (e) The amount of the taxes specified in paragraph (d)  
16 which the qualified target industry business paid under the  
17 tax refund agreement and for which the business seeks a tax  
18 refund under s. 288.106.  
19           (f)~~(e)~~ Any trade secret information as defined in s.  
20 812.081 contained within any statement concerning the role  
21 that the tax refunds requested will play in the decision of  
22 the applicant to locate or expand in this state.  
23           (g)~~(f)~~ An estimate of the proportion of the sales  
24 resulting from the project that will be made outside this  
25 state.  
26           (h) Data concerning the number of jobs created by the  
27 project and the wages paid for those jobs by a qualified  
28 target industry business which is submitted as part of a claim  
29 for a tax refund under s. 288.106 and as evidence of the  
30 achievement of performance items contained in the tax refund  
31 agreement.

1           (3) Nothing contained in this section shall prevent  
2 ~~the Department of Commerce,~~the Office of Tourism, Trade, and  
3 Economic Development; Enterprise Florida, Inc.; or any county  
4 or municipal governmental entity receiving the information  
5 described in this section from publishing statistics in the  
6 aggregate and so classified as to prevent the identification  
7 of a single qualified applicant.

8           (4) This section is subject to the Open Government  
9 Sunset Review Act of 1995 in accordance with s. 119.15, and  
10 shall stand repealed on October 2, 2006 ~~2007~~, unless reviewed  
11 and saved from repeal through reenactment by the Legislature.

12           Section 2. The Legislature finds that it is a public  
13 necessity that the confidentiality provided by section  
14 288.1066, Florida Statutes, for specified information received  
15 under the qualified defense contractor and qualified target  
16 industry tax refund programs be expanded to include  
17 information concerning the amount of taxes paid by qualified  
18 businesses while participating in the programs which  
19 information provides the basis for actual tax refunds sought  
20 under the programs. The Legislature further finds that it is a  
21 public necessity that such confidentiality also be expanded to  
22 include information concerning the number of jobs created and  
23 the amount of wages paid for those jobs by qualified  
24 businesses participating in the programs which information  
25 businesses must submit to demonstrate compliance with the  
26 terms of tax refund agreements. Finally, the Legislature finds  
27 that the listing of taxes to which confidentiality currently  
28 applies under section 288.1066, Florida Statutes, should be  
29 expanded to include excise taxes on documents and insurance  
30 premium taxes because these taxes provide a basis for tax  
31 refunds under the programs, thus conforming the scope of

1 confidentiality to the scope of the programs. An exemption  
2 from the public records requirements for information  
3 concerning the amount of taxes paid and for information  
4 concerning employment and wages is necessary because the  
5 disclosure of such information could injure a business in the  
6 marketplace by providing its competitors with detailed  
7 insights into the financial status and strategic plans of the  
8 business, thereby diminishing the advantage that the business  
9 maintains over those who do not possess such information.  
10 Without this exemption, private businesses whose records are  
11 not required to be open might refrain from participating in  
12 these economic development programs and thus would be unable  
13 to use the tax refunds available. If a business were unable to  
14 use the tax refunds, it might choose to locate its  
15 job-creating and investment activities outside the state,  
16 depriving the state and the public of the potential economic  
17 benefits associated with such activities. The harm to  
18 businesses in the marketplace and to effective administration  
19 of these economic development programs caused by the release  
20 of such information far outweighs the public benefit derived  
21 from release of such information.

22 Section 3. This act shall take effect October 1, 2001.

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24 HOUSE SUMMARY

25  
26 Extends and expands the public records exemption for  
27 business and financial information received under  
28 qualified defense contractor and qualified target  
29 industry tax refund programs.  
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