

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

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 288.075, F.S.; expanding the definition of the
 4 term "economic development agency" to include,
 5 for purposes of confidentiality of records, the
 6 Florida Commercial Space Financing Corporation
 7 and any public economic development agency of a
 8 county or a municipality; extending the
 9 scheduled repeal of a public records exemption
 10 for information concerning business location,
 11 relocation, or expansion plans; providing for
 12 future expiration and legislative review;
 13 clarifying an exception to the confidentiality
 14 provided by such exemption; authorizing public
 15 officers or employees under specified
 16 conditions to enter into agreements with a
 17 business that has requested confidentiality;
 18 authorizing an extension in the period of
 19 confidentiality; increasing the period of
 20 confidentiality for trade secrets; providing a
 21 statement of public necessity; providing an
 22 effective date.

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

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 26 Section 1. Section 288.075, Florida Statutes, is
 27 amended to read:

28 288.075 Confidentiality of records.--

29 (1) As used in this section, the term "economic
 30 development agency" means the Office of Tourism, Trade, and
 31 Economic Development, any industrial development authority

1 created in accordance with part III of chapter 159 or by
2 special law, the Spaceport Florida Authority created in part
3 II of chapter 331, the Florida Commercial Space Financing
4 Corporation created in part III of chapter 331, the public
5 economic development agency of a county or municipality ~~that~~
6 ~~advises the county commission on the issuance of industrial~~
7 ~~revenue bonds of a county that does not have an industrial~~
8 ~~development authority created in accordance with part III of~~
9 ~~chapter 159 or by special law, or any research and development~~
10 authority created in accordance with part V of chapter 159.

11 The term also includes any private agency, person,
12 partnership, corporation, or business entity when authorized
13 by the state, a municipality, or a county to promote the
14 general business interests or industrial interests of the
15 state or that municipality or county.

16 (2) Upon written request from a private corporation,
17 partnership, or person, records of an economic development
18 agency which contain or would provide information concerning
19 plans, intentions, or interests of such private corporation,
20 partnership, or person to locate, relocate, or expand any of
21 its business activities in this state are confidential and
22 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
23 Constitution for 24 months after the date an economic
24 development agency receives a request for confidentiality or
25 until disclosed by an economic development agency pursuant to
26 subsection (4) or by the party requesting confidentiality
27 under this section. Confidentiality must be maintained until
28 the expiration of the 24-month period or until documents or
29 information are otherwise disclosed, whichever occurs first.
30 Any ~~This~~ confidentiality provided under this section does not
31 apply when any party petitions a court of competent

1 jurisdiction and, in the opinion of the court, proves need for
2 access to such documents. This exemption expires October 2,
3 2006 ~~2001~~, and is subject to review by the Legislature under
4 the Open Government Sunset Review Act of 1995 in accordance
5 with s. 119.15.

6 (3) This section does not waive any provision of
7 chapter 120 or any other provision of law requiring a public
8 hearing.

9 (4) A public officer or employee may not enter into a
10 binding agreement with any corporation, partnership, or person
11 who has requested confidentiality of information pursuant to
12 this section, until 90 days after such information is made
13 public, unless such public officer or employee is acting in an
14 official capacity, the agreement does not accrue to the
15 personal benefit of such public officer or employee, and, in
16 the professional judgment of such officer or employee, the
17 agreement is necessary to effectuate an economic development
18 project.

19 (5) An economic development agency may extend the
20 period of confidentiality specified in subsection (2) for up
21 to an additional 12 months upon written request from the
22 private corporation, partnership, or person who originally
23 requested confidentiality under this section and upon a
24 finding by the economic development agency that such private
25 corporation, partnership, or person is still actively
26 considering locating, relocating, or expanding its business
27 activities in this state. Such a request for an extension in
28 the period of confidentiality must be received prior to the
29 expiration of any confidentiality originally provided under
30 this section.

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1 (6) Notwithstanding the period of confidentiality
2 specified in subsection (2), trade secrets, as defined by s.
3 812.081, contained in the records of an economic development
4 agency relating to the plans, intentions, or interests of a
5 corporation, partnership, or person who has requested
6 confidentiality pursuant to this section are confidential and
7 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
8 Constitution for 10 years after the date an economic
9 development agency receives a request for confidentiality or
10 until otherwise disclosed, whichever occurs first. The 10-year
11 period of confidentiality provided by this subsection does not
12 apply to any portion of the records other than trade secrets
13 as defined by s. 812.081.

14 ~~(7)(5)~~ Any person who is an employee of an economic
15 development agency who violates the provisions of this section
16 commits ~~is guilty of~~ a misdemeanor of the second degree,
17 punishable as provided in s. 775.082 or s. 775.083.

18 Section 2. The Legislature finds that it is a public
19 necessity that the confidentiality provided by section
20 288.075, Florida Statutes, for information on a business's
21 plans to locate, relocate, or expand its activities in this
22 state be broadened to include records of a county or a
23 municipal economic development agency which contain such
24 information. Many counties and municipalities in this state
25 operate public economic development offices that assist
26 businesses that are considering locating, relocating, or
27 expanding in this state. Confidentiality during the site
28 selection process is extremely important to businesses
29 because, among other reasons, disclosure of information
30 concerning the business's plans could provide competitors in
31 the marketplace with insights into the business's strategies

1 and finances, could cause employees of the business to leave
2 the organization in the face of uncertainty over the
3 business's future, or could cause the business to experience
4 inflated real estate prices as a result of speculation by
5 those hoping to sell property to the business. If county or
6 municipal economic development agencies were unable to provide
7 confidentiality for such information, businesses would be
8 reluctant to consider such communities as potential sites for
9 their job-creating and investment projects, thus depriving
10 those communities of the potential economic benefits
11 associated with such projects. The Legislature also finds that
12 it is a public necessity that economic development agencies be
13 authorized to extend the period of confidentiality because a
14 business's site selection process could take longer than the
15 24-month period currently provided by the public records
16 exemption, and the disclosure of information while the
17 business is still considering its site selection options could
18 jeopardize a viable economic development project, as well as
19 injure the business in the marketplace. In addition, the
20 Legislature finds that trade secrets, as defined by section
21 812.081, Florida Statutes, which are obtained by an economic
22 development agency during the site selection process merit a
23 longer period of confidentiality because the injury that would
24 occur to a business in the marketplace if its competitors
25 obtained such trade secrets is greater than the injury that
26 would occur from disclosure of other information concerning a
27 business's plans to locate, relocate, or expand its activities
28 in this state. The harm that would result from the release of
29 sensitive business information or from the impairment of the
30 effective administration of the state and local economic
31 development efforts far outweighs the public benefit derived

1 from release of such information. Furthermore, disclosure of
2 financing records during negotiations between private and
3 public entities would discourage economic development in
4 general, and have a negative impact on increasing the number
5 of high-technology, high-paying jobs in the state.

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