

By Senator Carlton

24-808B-01

1 A bill to be entitled
2 An act relating to public records; amending s.
3 213.053, F.S.; authorizing the Department of
4 Revenue to share certain information with local
5 governments; providing that confidential
6 information shared with local governments
7 remains confidential; providing a finding of
8 public necessity; providing an expiration date;
9 providing an effective date.

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

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13 Section 1. Subsections (1) and (7) of section 213.053,
14 Florida Statutes, are amended to read:

15 213.053 Confidentiality and information sharing.--

16 (1) The provisions of this section apply to s.
17 125.0104, county government; s. 125.0108, tourist impact tax;
18 chapter 175, municipal firefighters' pension trust funds;
19 chapter 185, municipal police officers' retirement trust
20 funds; chapter 198, estate taxes; chapter 199, intangible
21 personal property taxes; chapter 201, excise tax on documents;
22 chapter 202, communication services tax;chapter 203, gross
23 receipts taxes; chapter 211, tax on severance and production
24 of minerals; chapter 212, tax on sales, use, and other
25 transactions; chapter 220, income tax code; chapter 221,
26 emergency excise tax; s. 252.372, emergency management,
27 preparedness, and assistance surcharge; s. 370.07(3),
28 Apalachicola Bay oyster surcharge; chapter 376, pollutant
29 spill prevention and control; s. 403.718, waste tire fees; s.
30 403.7185, lead-acid battery fees; s. 538.09, registration of
31 secondhand dealers; s. 538.25, registration of secondary

1 metals recyclers; ss. 624.501 and 624.509-624.515, insurance
2 code; s. 681.117, motor vehicle warranty enforcement; and s.
3 896.102, reports of financial transactions in trade or
4 business.

5 (7) Notwithstanding any other provision of this
6 section, the department may provide:

7 (a) Information relative to chapter 211, chapter 376,
8 or chapter 377 to the proper state agency in the conduct of
9 its official duties.

10 (b) Names, addresses, and dates of commencement of
11 business activities of corporations to the Division of
12 Corporations of the Department of State in the conduct of its
13 official duties.

14 (c) Information relative to chapter 212 and chapters
15 561 through 568 to the Division of Alcoholic Beverages and
16 Tobacco of the Department of Business and Professional
17 Regulation in the conduct of its official duties.

18 (d) Names, addresses, and sales tax registration
19 information to the Division of Hotels and Restaurants of the
20 Department of Business and Professional Regulation in the
21 conduct of its official duties.

22 (e) Names, addresses, taxpayer identification numbers,
23 and outstanding tax liabilities to the Department of the
24 Lottery and the Department of Banking and Finance in the
25 conduct of their official duties.

26 (f) State tax information to the Nexus Program of the
27 Multistate Tax Commission pursuant to any formal agreement for
28 the exchange of mutual information between the department and
29 the commission.

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1 (g) Tax information to principals, and their
2 designees, of the Revenue Estimating Conference for the
3 purpose of developing official revenue estimates.

4 (h) Names and addresses of persons paying taxes
5 pursuant to part IV of chapter 206 to the Department of
6 Environmental Protection in the conduct of its official
7 duties.

8 (i) Information relative to chapters 212 and 326 to
9 the Division of Florida Land Sales, Condominiums, and Mobile
10 Homes of the Department of Business and Professional
11 Regulation in the conduct of its official duties.

12 (j) Information authorized pursuant to s. 213.0535 to
13 eligible participants and certified public accountants for
14 such participants in the Registration Information Sharing and
15 Exchange Program.

16 (k) Payment information relative to chapters 199, 201,
17 212, 220, and 221 to the Office of Tourism, Trade, and
18 Economic Development in its administration of the tax refund
19 program for qualified defense contractors authorized by s.
20 288.1045 and the tax refund program for qualified target
21 industry businesses authorized by s. 288.106.

22 (l) Information relative to chapter 212 to the Office
23 of Agriculture Law Enforcement of the Department of
24 Agriculture and Consumer Services in the conduct of the Bill
25 of Lading Program. This information is limited to the business
26 name and whether the business is in compliance with chapter
27 212.

28 (m) Information relative to chapter 198 to the Agency
29 for Health Care Administration in the conduct of its official
30 business relating to ss. 409.901-409.910.

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1 (n) Information contained in returns, reports,
2 accounts, or declarations to the Board of Accountancy in
3 connection with a disciplinary proceeding conducted pursuant
4 to chapter 473 when related to a certified public accountant
5 participating in the certified audits project, or to the court
6 in connection with a civil proceeding brought by the
7 department relating to a claim for recovery of taxes due to
8 negligence on the part of a certified public accountant
9 participating in the certified audits project. In any
10 judicial proceeding brought by the department, upon motion for
11 protective order, the court shall limit disclosure of tax
12 information when necessary to effectuate the purposes of this
13 section. This paragraph is repealed on July 1, 2002.

14 (o) Information relative to ss. 376.70 and 376.75 to
15 the Department of Environmental Protection in the conduct of
16 its official business and to the facility owner, facility
17 operator, and real property owners as defined in s. 376.301.

18 (p) Information relative to ss. 199.1055, 220.1845,
19 and 376.30781 to the Department of Environmental Protection in
20 the conduct of its official business.

21 (q) Names, addresses, and sales tax registration
22 information to the Division of Consumer Services of the
23 Department of Agriculture and Consumer Services in the conduct
24 of its official duties.

25 (r) Information relative to the returns required by
26 ss. 175.111 and 185.09 to the Department of Management
27 Services in the conduct of its official duties. The Department
28 of Management Services is, in turn, authorized to disclose
29 payment information to a governmental agency as necessary in
30 the administration of chapters 175 and 185.

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1 (s) Names, addresses, and federal employer
2 identification numbers, or similar identifiers, to the
3 Department of Highway Safety and Motor Vehicles for use in the
4 conduct of its official duties.

5 (t) Information relative to the tax exemptions under
6 ss. 212.031, 212.06, and 212.08 for those persons qualified
7 under s. 288.1258 to the Office of the Film Commissioner. The
8 Department of Revenue shall provide the Office of the Film
9 Commissioner with information in the aggregate.

10 (u) Information relative to chapter 202 to each local
11 government that imposes a tax under s. 202.19, in the conduct
12 of its official duties as specified in chapter 202.

13 Information provided under this section may include, but is
14 not limited to, any reports specified in chapter 202, audit
15 files, notices of intent to audit, tax returns, and other
16 confidential tax information in the department's possession
17 relating to chapter 202. Only a person or an entity designated
18 by the local government in writing to the department as
19 requiring access to confidential taxpayer information may have
20 access to information provided under this paragraph. Only a
21 person or an entity requiring the information in order to
22 perform job-related duties who has direct responsibility for
23 budget preparation or financial administration may be
24 designated. Such information may be used only for those
25 purposes.

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27 Disclosure of information under this subsection shall be
28 pursuant to a written agreement between the executive director
29 and the agency. Such agencies, governmental or
30 nongovernmental, shall be bound by the same requirements of
31 confidentiality as the Department of Revenue. Any information

1 furnished to an agency, or to any entity designated by an
2 agency as authorized under this section, which is exempt from
3 the provisions of s. 119.07(1) and s. 24(a) of Art. I of the
4 State Constitution under this section shall continue to be
5 exempt when provided to an agency and may not be further
6 disclosed except as provided in this section.Breach of
7 confidentiality is a misdemeanor of the first degree,
8 punishable as provided by s. 775.082 or s. 775.083.

9 Section 2. The Legislature finds that it is a public
10 necessity that any information or material furnished to a
11 local government which is exempt from the Sunshine Laws when
12 in the possession of the Department of Revenue is also exempt
13 when in the possession of a local government. The disclosure
14 of such information or material in a local governmental
15 entity's possession would adversely affect the business
16 interests of communications service companies providing the
17 information by harming them in the marketplace and
18 compromising the security of the communications network.
19 Further, disclosure of such information or material would
20 impair competition in the communications industry. Disclosure
21 of data prepared by or in the possession of a local government
22 which reveals the business interests of communications service
23 companies creates a competitive disadvantage and an unfair
24 advantage for its competitors. Competitors can use such
25 information to impair full and fair competition and impede
26 competition in the communications marketplace to the
27 disadvantage of the consumers of communications services.
28 Thus, the public and private harm in disclosing this
29 information significantly outweighs any public benefit derived
30 from disclosure, and the public's ability to scrutinize or

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1 monitor agency action is not diminished by nondisclosure of
2 this information.

3 Section 3. The exemption in section (1) of this act is
4 subject to the Open Government Sunset Review Act in accordance
5 with section 119.15, Florida Statutes, and expires October 2,
6 2006, unless reviewed and reenacted by the Legislature.

7 Section 4. This act shall take effect July 1, 2001.

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SENATE SUMMARY

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Provides an exemption from public records disclosure requirements for information relating to the local communications services tax provided to local governments by the Department of Revenue. Provides a finding of public necessity and an expiration date.

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