

By the Committee on Commerce and Economic Opportunities

310-559A-01

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, any
6 public economic development agency of a county
7 or a municipality; abrogating the scheduled
8 repeal of a public records exemption for
9 information concerning business location,
10 relocation, or expansion plans; providing for
11 future expiration and legislative review;
12 clarifying an exception to the confidentiality
13 provided by such exemption; authorizing public
14 officers or employees under specified
15 conditions to enter into agreements with a
16 business that has requested confidentiality;
17 authorizing an extension in the period of
18 confidentiality; increasing the period of
19 confidentiality for trade secrets; providing a
20 statement of public necessity; providing an
21 effective date.

22

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

24

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

27 288.075 Confidentiality of records.--

28 (1) As used in this section, the term "economic
29 development agency" means the Office of Tourism, Trade, and
30 Economic Development, any industrial development authority
31 created in accordance with part III of chapter 159 or by

1 special law, the Spaceport Florida Authority created in part
2 II of chapter 331, the public economic development agency of a
3 county or a municipality ~~that advises the county commission on~~
4 ~~the issuance of industrial revenue bonds of a county that does~~
5 ~~not have an industrial development authority created in~~
6 ~~accordance with part III of chapter 159 or by special law, or~~
7 any research and development authority created in accordance
8 with part V of chapter 159. The term also includes any private
9 agency, person, partnership, corporation, or business entity
10 when authorized by the state, a municipality, or a county to
11 promote the general business interests or industrial interests
12 of the state or that municipality or county.

13 (2) Upon written request from a private corporation,
14 partnership, or person, records of an economic development
15 agency which contain or would provide information concerning
16 plans, intentions, or interests of such private corporation,
17 partnership, or person to locate, relocate, or expand any of
18 its business activities in this state are confidential and
19 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
20 Constitution for 24 months after the date an economic
21 development agency receives a request for confidentiality or
22 until disclosed by an economic development agency pursuant to
23 subsection (4) or by the party requesting confidentiality
24 under this section. Confidentiality must be maintained until
25 the expiration of the 24-month period or until documents or
26 information are otherwise disclosed, whichever occurs first.
27 Any confidentiality provided under this section ~~This~~
28 ~~confidentiality~~ does not apply when any party petitions a
29 court of competent jurisdiction and, in the opinion of the
30 court, proves need for access to such documents. This
31 exemption expires October 2, 2006 ~~October 2, 2001~~, and is

1 subject to review by the Legislature under the Open Government
2 Sunset Review Act of 1995 in accordance with s. 119.15.

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

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

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

28 (6) Notwithstanding the period of confidentiality
29 specified in subsection (2), trade secrets, as defined by s.
30 812.081, contained in the records of an economic development
31 agency relating to the plans, intentions, or interests of a

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

10 (7)(5) Any person who is an employee of an economic
11 development agency who violates the provisions of this section
12 is guilty of a misdemeanor of the second degree, punishable as
13 provided in s. 775.082 or s. 775.083.

14 Section 2. The Legislature finds that it is a public
15 necessity that the confidentiality provided by section
16 288.075, Florida Statutes, for information on a business's
17 plans to locate, relocate, or expand its activities in this
18 state be broadened to include records of a county or a
19 municipal economic development agency which contain such
20 information. Many counties and municipalities in this state
21 operate public economic development offices that assist
22 businesses that are considering locating, relocating, or
23 expanding in this state. Confidentiality during the
24 site-selection process is extremely important to businesses,
25 because, among other reasons, disclosure of information
26 concerning the business's plans could provide competitors in
27 the marketplace with insights into the business's strategies
28 and finances, could cause employees of the business to leave
29 the organization in the face of uncertainty over the
30 business's future, or could cause the business to experience
31 inflated real estate prices as a result of speculation by

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

29 Section 3. This act shall take effect October 1, 2001.
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Saves from repeal a public records exemption for records of an economic development agency which contain or would provide information concerning the plans of a business to locate, relocate, or expand its activities in this state. Revises the exemption to include the records of a county or a municipal economic development office within the coverage of the exemption. Allows confidentiality to be maintained for longer than 24 months in the case of trade secrets, or in the case of other information, if it can be shown that a business is still engaged in the site-selection process for its economic development project. Allows a public officer or employee to enter into an agreement with a business that has requested confidentiality if the agreement is executed in the official capacity of a public officer or employee, does not accrue to the personal benefit of that officer or employee, and is necessary to effectuate the economic development project.