

By the Committee on Commerce and Economic Opportunities; and  
Senator Diaz de la Portilla

310-548-02

1                                   A bill to be entitled  
2           An act relating to public records; creating s.  
3           288.1067, F.S.; creating a public records  
4           exemption for specified business information  
5           received under the tax refund programs for  
6           qualified defense contractors, qualified  
7           aviation-industry businesses, and qualified  
8           target-industry businesses; prescribing the  
9           time period for confidentiality; specifying  
10          that the exemption does not preclude  
11          publication of aggregate data or release of  
12          names of qualifying businesses and refund  
13          amounts; providing for future repeal and  
14          legislative review; providing a statement of  
15          public necessity; providing an effective date.

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

19           Section 1.   Section 288.1067, Florida Statutes, is  
20 created to read:

21           288.1067 Confidentiality of records.--  
22           (1) The following information when received by the  
23 Office of Tourism, Trade, and Economic Development; Enterprise  
24 Florida, Inc.; or county or municipal governmental entities  
25 and their employees pursuant to the tax refund program for  
26 qualified businesses as required by s. 288.1045 is  
27 confidential and exempt from the provisions of s. 119.07(1)  
28 and s. 24(a), Art. I of the State Constitution for a period  
29 not to exceed the duration of the tax refund agreement or 10  
30 years, whichever is earlier:

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

3           (b) The percentage of the applicant's gross receipts  
4 derived from Department of Defense contracts during the 5  
5 taxable years immediately preceding the date the application  
6 is submitted.

7           (c) The amount of:

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

10           2. Corporate income taxes paid pursuant to chapter  
11 220;

12           3. Intangible personal property taxes paid pursuant to  
13 chapter 199;

14           4. Emergency excise taxes paid pursuant to chapter  
15 221;

16           5. Excise taxes on documents paid pursuant to chapter  
17 201;

18           6. Ad valorem taxes paid; and

19           7. Aviation fuel taxes paid pursuant to s. 206.9825

20  
21 during the 5 fiscal years immediately preceding the date of  
22 the application, and the projected amounts of such taxes to be  
23 due in the 3 fiscal years immediately following the date of  
24 the application.

25           (d) The amount of each of the taxes specified in  
26 paragraph (c) which the qualified applicant paid during the  
27 term of the tax refund agreement and for which the qualified  
28 applicant seeks a tax refund under s. 288.1045.

29           (e) Any trade secret information as defined in s.  
30 812.081 contained within any statement concerning the

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1 applicant's need for tax refunds or concerning the proposed  
2 uses of such refunds by the applicant.

3 (f) Information relating to the number of jobs created  
4 and the wages paid for those jobs by a qualified applicant  
5 when submitted as part of a claim for a tax refund under s.  
6 288.1045 and as evidence of the achievement of performance  
7 items contained in the tax refund agreement.

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

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

19 (b) Any trade secret information as defined in s.  
20 812.081 contained within any description of the type of  
21 business activity or product covered by the project.

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

24 (d) The amount of:

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

27 2. Corporate income taxes paid pursuant to chapter  
28 220;

29 3. Intangible personal property taxes paid pursuant to  
30 chapter 199;

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1           4. Emergency excise taxes paid pursuant to chapter  
2 221;

3           5. Insurance premium taxes paid pursuant to s.  
4 624.509;

5           6. Excise taxes on documents paid pursuant to chapter  
6 201; and

7           7. Ad valorem taxes paid

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9 during the 5 fiscal years immediately preceding the date of  
10 the application, and the projected amounts of such taxes to be  
11 due in the 3 fiscal years immediately following the date of  
12 the application.

13           (e) The amount of each of the taxes specified in  
14 paragraph (d) which the qualified target industry business  
15 paid during the term of the tax refund agreement and for which  
16 the business seeks a tax refund under s. 288.106.

17           (f) Any trade secret information as defined in s.  
18 812.081 contained within any statement concerning the role  
19 that the tax refunds requested will play in the decision of  
20 the applicant to locate or expand in this state.

21           (g) An estimate of the proportion of the sales  
22 resulting from the project that will be made outside this  
23 state.

24           (h) Information relating to the number of jobs created  
25 and the wages paid for those jobs by a qualified target  
26 industry business when submitted as part of a claim for a tax  
27 refund under s. 288.106 and as evidence of the achievement of  
28 performance items contained in the tax refund agreement.

29           (3) Nothing contained in this section shall prevent  
30 the Office of Tourism, Trade, and Economic Development;  
31 Enterprise Florida, Inc.; or any county or municipal

1 governmental entity receiving the information described in  
2 this section from publishing statistics in the aggregate and  
3 so classified as to prevent the identification of a single  
4 qualified applicant.

5 (4) Nothing contained in this section shall prevent  
6 the Office of Tourism, Trade, and Economic Development;  
7 Enterprise Florida, Inc.; or any county or municipal  
8 governmental entity from releasing the names of qualified  
9 businesses, the amount of refunds awarded to such businesses,  
10 and the amount of refunds claimed by such businesses under ss.  
11 288.1045 or 288.106.

12 (5) This section is subject to the Open Government  
13 Sunset Review Act of 1995 in accordance with s. 119.15, and  
14 shall stand repealed on October 2, 2006, unless reviewed and  
15 saved from repeal through reenactment by the Legislature.

16 Section 2. The Legislature finds that it is a public  
17 necessity to provide confidentiality for certain information  
18 about businesses that is obtained through the administration  
19 of the tax refund programs for qualified defense contractors,  
20 qualified aviation-industry businesses, and qualified  
21 target-industry businesses under sections 288.1045 and  
22 288.106, Florida Statutes. The disclosure of information such  
23 as trade secrets, tax identification numbers, analyses of  
24 gross receipts, the amount of taxes paid, and the amount of  
25 employee wages paid could injure a business in the marketplace  
26 by providing its competitors with detailed insights into the  
27 financial status and the strategic plans of the business,  
28 thereby diminishing the advantage that the business maintains  
29 over those who do not possess such information. Without this  
30 exemption, private-sector businesses, whose records generally  
31 are not required to be open to the public, might refrain from

1 participating in these economic development programs and thus  
2 would not be able to use the tax refunds available under the  
3 programs. If a business were unable to use the tax refunds, it  
4 might choose to locate its employment and other investment  
5 activities outside the state, depriving the state and the  
6 public of the potential economic benefits associated with such  
7 activities. The harm to businesses in the marketplace and to  
8 effective administration of these economic development  
9 programs caused by the release of such information far  
10 outweighs the public benefits derived from its release. In  
11 addition, because the confidentiality provided by this act  
12 does not preclude the reporting of statistics in the aggregate  
13 about the programs, as well as the names of businesses  
14 participating in the programs and the amount of tax refunds  
15 awarded and claimed, the public has access to information  
16 important to an assessment of the performance of the programs.

17 Section 3. This act shall take effect upon becoming a  
18 law.

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
21 COMMITTEE SUBSTITUTE FOR  
22 SB 32-B

23 The committee substitute replaces the original bill and  
24 creates a public records exemption for specified business  
25 information that is received by the Office of Tourism, Trade,  
26 and Economic Development; Enterprise Florida, Inc; or county  
27 or municipal governmental entities through their  
28 administration of the Qualified Target Industry and Qualified  
29 Defense Contractor tax refund programs. The public records  
30 exemption is comparable to a public records exemption  
31 contained in a section of the Florida Statutes (s. 288.1066,  
F.S.) that stands repealed as of October 2, 2001.