

By Representative Davis

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

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

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

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

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

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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 wages paid for jobs by
4 a qualified applicant when submitted as part of a claim for a
5 tax refund under s. 288.1045 and as evidence of the
6 achievement of performance items contained in the tax refund
7 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 wages paid for jobs by
25 a qualified target industry business when submitted as part of
26 a claim for a tax refund under s. 288.106 and as evidence of
27 the achievement of performance items contained in the tax
28 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, 2007, 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 target
21 industry businesses under sections 288.1045 and 288.106,
22 Florida Statutes. The disclosure of information such as trade
23 secrets, tax identification numbers, analyses of gross
24 receipts, the amount of taxes paid, and the amount of employee
25 wages paid could injure a business in the marketplace by
26 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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21 HOUSE SUMMARY

22 Provides an exemption from public records requirements
23 for specified business information received under the tax
24 refund programs for qualified defense contractors,
25 qualified aviation industry businesses, and qualified
26 target industry businesses. Prescribes the time period
27 for confidentiality. Specifies that the exemption does
28 not preclude publication of aggregate data or release of
29 names of qualifying businesses and refund amounts.
30 Provides for future review and repeal of the exemption.
31 Provides a statement of public necessity.