

By Senator Saunders

25-1582-02

See HB 777

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; amending ss. 443.171,

15          443.1715, F.S., to conform; providing a

16          statement of public necessity; providing an

17          effective date.

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

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21           Section 1. Section 288.1067, Florida Statutes, is

22   created to read:

23           288.1067 Confidentiality of records.--

24           (1) The following information when received by the

25   Office of Tourism, Trade, and Economic Development; Enterprise

26   Florida, Inc.; or county or municipal governmental entities

27   and their employees pursuant to the tax refund program for

28   qualified businesses as required by s. 288.1045 is

29   confidential and exempt from the provisions of s. 119.07(1)

30   and s. 24(a), Art. I of the State Constitution for a period

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1 not to exceed the duration of the tax refund agreement or 10  
2 years, whichever is earlier:  
3 (a) The applicant's federal employer identification  
4 number and Florida sales tax registration number.  
5 (b) The percentage of the applicant's gross receipts  
6 derived from Department of Defense contracts during the 5  
7 taxable years immediately preceding the date the application  
8 is submitted.  
9 (c) The amount of:  
10 1. Taxes on sales, use, and other transactions paid  
11 pursuant to chapter 212;  
12 2. Corporate income taxes paid pursuant to chapter  
13 220;  
14 3. Intangible personal property taxes paid pursuant to  
15 chapter 199;  
16 4. Emergency excise taxes paid pursuant to chapter  
17 221;  
18 5. Excise taxes on documents paid pursuant to chapter  
19 201; and  
20 6. Ad valorem taxes paid  
21  
22 during the 5 fiscal years immediately preceding the date of  
23 the application, and the projected amounts of such taxes to be  
24 due in the 3 fiscal years immediately following the date of  
25 the application.  
26 (d) The amount of each of the taxes specified in  
27 paragraph (c) which the qualified applicant paid during the  
28 term of the tax refund agreement and for which the qualified  
29 applicant seeks a tax refund under s. 288.1045.  
30 (e) Any trade secret information as defined in s.  
31 812.081 contained within any statement concerning the

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 business tax refund program as required by s. 288.106 is  
13 confidential and exempt from the provisions of s. 119.07(1)  
14 and s. 24(a), Art. I of the State Constitution for a period  
15 not to exceed the duration of the tax refund agreement or 10  
16 years, 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  
8  
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 s.  
11 288.1045 or s. 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. Subsection (7) of section 443.171, Florida  
17 Statutes, is amended to read:

18 443.171 Division and commission; powers and duties;  
19 rules; advisory council; records and reports; proceedings;  
20 state-federal cooperation.--

21 (7) RECORDS AND REPORTS.--Each employing unit shall  
22 keep true and accurate work records, containing such  
23 information as the division may prescribe. Such records shall  
24 be open to inspection and be subject to being copied by the  
25 division at any reasonable time and as often as may be  
26 necessary. The division or an appeals referee may require from  
27 any employing unit any sworn or unsworn reports, with respect  
28 to persons employed by it, deemed necessary for the effective  
29 administration of this chapter. However, a state or local  
30 governmental agency performing intelligence or  
31 counterintelligence functions need not report an employee if

1 the head of such agency has determined that reporting the  
2 employee could endanger the safety of the employee or  
3 compromise an ongoing investigation or intelligence mission.  
4 Information revealing the employing unit's or individual's  
5 identity thus obtained from the employing unit or from any  
6 individual pursuant to the administration of this chapter,  
7 shall, except to the extent necessary for the proper  
8 presentation of a claim or upon written authorization of the  
9 claimant who has a workers' compensation claim pending, be  
10 held confidential and exempt from the provisions of s.  
11 119.07(1). Such information shall be available only to public  
12 employees in the performance of their public duties, including  
13 employees of the Department of Education in obtaining  
14 information for the Florida Education and Training Placement  
15 Information Program and the Office of Tourism, Trade, and  
16 Economic Development in its administration of the ~~qualified~~  
17 ~~defense contractor~~ tax refund program for qualified defense  
18 contractors and aviation-industry businesses authorized by s.  
19 288.1045 and the qualified target industry business tax  
20 refund program authorized by s. 288.106. Any claimant, or the  
21 claimant's legal representative, at a hearing before an  
22 appeals referee or the commission shall be supplied with  
23 information from such records to the extent necessary for the  
24 proper presentation of her or his claim. Any employee or  
25 member of the commission or any employee of the division, or  
26 any other person receiving confidential information, who  
27 violates any provision of this subsection is guilty of a  
28 misdemeanor of the second degree, punishable as provided in s.  
29 775.082 or s. 775.083. However, the division may furnish to  
30 any employer copies of any report previously submitted by such  
31 employer, upon the request of such employer, and the division

1 is authorized to charge therefor such reasonable fee as the  
2 division may by rule prescribe not to exceed the actual  
3 reasonable cost of the preparation of such copies. Fees  
4 received by the division for copies provided under this  
5 subsection shall be deposited to the credit of the Employment  
6 Security Administration Trust Fund.

7 Section 3. Subsection (1) of section 443.1715, Florida  
8 Statutes, is amended to read:

9 443.1715 Disclosure of information; confidentiality.--

10 (1) RECORDS AND REPORTS.--Information revealing the  
11 employing unit's or individual's identity obtained from the  
12 employing unit or from any individual pursuant to the  
13 administration of this chapter, and any determination  
14 revealing such information, must, except to the extent  
15 necessary for the proper presentation of a claim or upon  
16 written authorization of the claimant who has a workers'  
17 compensation claim pending, be held confidential and exempt  
18 from the provisions of s. 119.07(1) and s. 24(a), Art. I of  
19 the State Constitution. Such information may be made available  
20 only to public employees in the performance of their public  
21 duties, including employees of the Department of Education in  
22 obtaining information for the Florida Education and Training  
23 Placement Information Program and the Office of Tourism,  
24 Trade, and Economic Development in its administration of the  
25 ~~qualified defense contractor~~ tax refund program for qualified  
26 defense contractors and aviation-industry businesses  
27 authorized by s. 288.1045. Except as otherwise provided by  
28 law, public employees receiving such information must retain  
29 the confidentiality of such information. Any claimant, or the  
30 claimant's legal representative, at a hearing before an  
31 appeals referee or the commission shall be supplied with

1 information from such records to the extent necessary for the  
2 proper presentation of her or his claim. Any employee or  
3 member of the commission or any employee of the division, or  
4 any other person receiving confidential information, who  
5 violates any provision of this subsection commits a  
6 misdemeanor of the second degree, punishable as provided in s.  
7 775.082 or s. 775.083. However, the division may furnish to  
8 any employer copies of any report previously submitted by such  
9 employer, upon the request of such employer, and may furnish  
10 to any claimant copies of any report previously submitted by  
11 such claimant, upon the request of such claimant, and the  
12 division is authorized to charge therefor such reasonable fee  
13 as the division may by rule prescribe not to exceed the actual  
14 reasonable cost of the preparation of such copies. Fees  
15 received by the division for copies as provided in this  
16 subsection must be deposited to the credit of the Employment  
17 Security Administration Trust Fund.

18       Section 4. The Legislature finds that it is a public  
19 necessity to provide confidentiality for certain information  
20 about businesses that is obtained through the administration  
21 of the tax refund programs for qualified defense contractors,  
22 qualified aviation-industry businesses, and qualified target  
23 industry businesses under sections 288.1045 and 288.106,  
24 Florida Statutes. The disclosure of information such as trade  
25 secrets, tax identification numbers, analyses of gross  
26 receipts, the amount of taxes paid, and the amount of employee  
27 wages paid could injure a business in the marketplace by  
28 providing its competitors with detailed insights into the  
29 financial status and the strategic plans of the business,  
30 thereby diminishing the advantage that the business maintains  
31 over those who do not possess such information. Without this



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

19 Section 5. This act shall take effect upon becoming a  
20 law.

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23 LEGISLATIVE SUMMARY

24  
25 Creates a public records exemption for specified business  
26 information that is received by the Office of Tourism,  
27 Trade, and Economic Development; Enterprise Florida,  
28 Inc.; or county or municipal governmental entities  
29 through their administration of the qualified target  
30 industry, qualified defense contractor, and qualified  
31 aviation-industry tax refund programs. The public records  
exemption is comparable to a public records exemption  
contained in a section of the Florida Statutes (s.  
288.1066, F.S.) that stands repealed as of October 2,  
2001.