

Bill No. CS/HB 777

Amendment No. Barcode 573142

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Diaz de la Portilla moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

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

288.1067 Confidentiality of records.--

(1) The following information held by the Office of Tourism, Trade, and Economic Development, Enterprise Florida, Inc., or county or municipal governmental entities, and their employees or agents, pursuant to the incentive programs for qualified businesses as provided in s. 220.191, s. 288.1045, s. 288.106, s. 288.108, or s. 288.1088 is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, for a period not to exceed the duration of the relevant tax refund, tax credit, or incentive agreement:

(a) The business's federal employer identification number, unemployment compensation account number, and Florida

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1 sales tax registration number.

2 (b) Any trade secret information as defined in s.
3 812.081. Notwithstanding any provision of this section, trade
4 secret information shall continue to be confidential and
5 exempt after the duration of the tax refund, tax credit, or
6 incentive agreement.

7 (c) The percentage of the business's sales occurring
8 outside this state and, for businesses applying under s.
9 288.1045, the percentage of the business's gross receipts
10 derived from Department of Defense contracts during the 5
11 years immediately preceding the date the business's
12 application is submitted.

13 (d) The anticipated wages for the project jobs that
14 the business plans to create, as reported on the application
15 for certification.

16 (e) The average wage actually paid by the business for
17 those jobs created by the project and any detailed proprietary
18 business information or an employee's personal identifying
19 information, held as evidence of the achievement or
20 nonachievement of the wage requirements of the tax refund, tax
21 credit, or incentive agreement programs or of the job-creation
22 requirements of such programs.

23 (f) Any proprietary business information regarding
24 capital investment in eligible building and equipment made by
25 the qualified business project when held by the Office of
26 Tourism, Trade, and Economic Development as evidence of the
27 achievement or nonachievement of the investment requirements
28 for the tax-credit certification under s. 220.191, for the
29 high-impact performance agreement under s. 288.108, or for the
30 quick-action closing fund agreement under s. 288.1088.

31 (g) The amount of:

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- 1 1. Taxes on sales, use, and other transactions paid
2 pursuant to chapter 212;
3 2. Corporate income taxes paid pursuant to chapter
4 220;
5 3. Intangible personal property taxes paid pursuant to
6 chapter 199;
7 4. Emergency excise taxes paid pursuant to chapter
8 221;
9 5. Insurance premium taxes paid pursuant to chapter
10 624;
11 6. Excise taxes paid on documents pursuant to chapter
12 201; or
13 7. Ad valorem taxes paid, as defined in s. 220.03(1),
14
15 which the qualified business reports on its application for
16 certification or reports during the term of the tax refund
17 agreement, and for which the qualified business claims a tax
18 refund under s. 288.1045 or s. 288.106, and any such
19 information held as evidence of the achievement or
20 nonachievement of performance items contained in the tax
21 refund agreement.
22 (2) Nothing contained in this section shall prevent
23 the Office of Tourism, Trade, and Economic Development or
24 Enterprise Florida, Inc., from releasing:
25 (a) The names of qualified businesses, the total
26 number of jobs each business expects to create, the total
27 number of jobs created by each business, and the amount of tax
28 refunds awarded to and claimed by each business under s.
29 228.1045 or s. 288.106. However, for a business applying under
30 s. 288.1045 based on obtaining a new Department of Defense
31 contract, the total number of jobs expected and the amount of

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1 tax refunds claimed shall not be released until the new
2 Department of Defense contract is awarded;

3 (b) The amount of incentives awarded and claimed by
4 each business under s. 288.108 or s. 288.1088; or

5 (c) The names of qualified businesses, the total
6 number of jobs each business expects to create, and the total
7 number of jobs created by each business under s. 220.191.

8 (3) Nothing contained in this section shall prevent
9 the Office of Tourism, Trade and Economic Development or
10 Enterprise Florida, Inc., from publishing statistics in the
11 aggregate and so classified as to prevent the identification
12 of a single qualified applicant.

13 (4) This section is subject to the Open Government
14 Sunset Review Act of 1995 in accordance with s. 119.15 and
15 shall stand repealed on October 2, 2007, unless reviewed and
16 saved from repeal through reenactment by the Legislature.

17 Section 2. Paragraph (k) of subsection (7) of section
18 213.053, Florida Statutes, is amended to read:

19 213.053 Confidentiality and information sharing.--

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

22 (k)1. Payment information relative to chapters 199,
23 201, 212, 220, ~~and~~ 221, and 624 to the Office of Tourism,
24 Trade, and Economic Development, or its employees or agents
25 that are identified in writing by the office to the
26 department, in the ~~its~~ administration of the tax refund
27 program for qualified defense contractors authorized by s.
28 288.1045 and the tax refund program for qualified target
29 industry businesses authorized by s. 288.106.

30 2. Information relative to tax credits taken by a
31 business under s. 220.191 and exemptions or tax refunds

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1 received by a business under s. 212.08(5)(j) to the Office of
2 Tourism, Trade, and Economic Development, or its employees or
3 agents that are identified in writing by the office to the
4 department, in the administration and evaluation of the
5 capital investment tax credit program authorized in s. 220.191
6 and the semiconductor, defense, and space tax exemption
7 program authorized in s. 212.08(5)(j).

8
9 Disclosure of information under this subsection shall be
10 pursuant to a written agreement between the executive director
11 and the agency. Such agencies, governmental or
12 nongovernmental, shall be bound by the same requirements of
13 confidentiality as the Department of Revenue. Breach of
14 confidentiality is a misdemeanor of the first degree,
15 punishable as provided by s. 775.082 or s. 775.083.

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

18 443.1715 Disclosure of information; confidentiality.--

19 (1) RECORDS AND REPORTS.--Information revealing the
20 employing unit's or individual's identity obtained from the
21 employing unit or from any individual pursuant to the
22 administration of this chapter, and any determination
23 revealing such information, ~~must~~, except to the extent
24 necessary for the proper presentation of a claim or upon
25 written authorization of the claimant who has a workers'
26 compensation claim pending, must be held confidential and
27 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
28 I of the State Constitution. Such information may be made
29 available only to public employees in the performance of their
30 public duties, including employees of the Department of
31 Education in obtaining information for the Florida Education

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1 and Training Placement Information Program and the Office of
2 Tourism, Trade, and Economic Development in its administration
3 of the qualified defense contractor tax refund program
4 authorized by s. 288.1045 and the qualified target industry
5 tax refund program authorized by s. 288.106. Except as
6 otherwise provided by law, public employees receiving such
7 information must retain the confidentiality of such
8 information. Any claimant, or the claimant's legal
9 representative, at a hearing before an appeals referee or the
10 commission shall be supplied with information from such
11 records to the extent necessary for the proper presentation of
12 her or his claim. Any employee or member of the commission or
13 any employee of the division, or any other person receiving
14 confidential information, who violates any provision of this
15 subsection commits a misdemeanor of the second degree,
16 punishable as provided in s. 775.082 or s. 775.083. However,
17 the division may furnish to any employer copies of any report
18 previously submitted by such employer, upon the request of
19 such employer, and may furnish to any claimant copies of any
20 report previously submitted by such claimant, upon the request
21 of such claimant, and the division is authorized to charge
22 therefor such reasonable fee as the division may by rule
23 prescribe not to exceed the actual reasonable cost of the
24 preparation of such copies. Fees received by the division for
25 copies as provided in this subsection must be deposited to the
26 credit of the Employment Security Administration Trust Fund.

27 Section 4. The Legislature finds that it is a public
28 necessity to provide confidentiality for certain information
29 concerning businesses that is obtained through the
30 administration of the tax refund, tax credit, and incentive
31 programs for qualified defense contractors, qualified

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1 target-industry businesses, high-impact performance incentive
2 businesses, quick-action closing fund businesses, and
3 capital-investment tax-credit businesses under sections
4 220.191, 288.1045, 288.106, 288.108, and 288.1088, Florida
5 Statutes. The disclosure of information such as trade
6 secrets, tax identification numbers, analyses of gross
7 receipts, the amount of taxes paid, the amount of capital
8 investment, and the amount of employee wages paid, and the
9 detailed documentation to substantiate such performance
10 information, could injure a business in the marketplace by
11 providing its competitors with detailed insights into the
12 financial status and the strategic plans of the business,
13 thereby diminishing the advantage that the business maintains
14 over those who do not possess such information. The
15 disclosure, prior to the award of a new Department of Defense
16 contract, of information such as the number of new jobs to be
17 created to perform the contract and the amount of refunds
18 claimed could injure a business by providing competitors with
19 detailed insights into the resources of the business and
20 diminish the business's chances of obtaining a new Department
21 of Defense contract. Some of the documentation supplied to
22 support a business's tax refund and credit claims, or other
23 incentive claims, could reveal private information, such as
24 employee names and social security numbers, concerning that
25 business's employees. Without this exemption, private-sector
26 businesses, whose records generally are not required to be
27 open to the public, might refrain from participating in these
28 economic-development programs and thus would not be able to
29 use the tax refunds available under the programs. If a
30 business were unable to use the tax refund, it might choose to
31 locate its employment and other investment activities outside

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1 the state, depriving the state and the public of the potential
2 economic benefits associated with such business activities in
3 Florida. The harm to businesses in the marketplace and to the
4 effective administration of these economic-development
5 programs caused by the public disclosure of such information
6 far outweighs the public benefits derived from its release. In
7 addition, because the confidentiality provided by this act
8 does not preclude the reporting of statistics in the aggregate
9 concerning the programs, as well as the names of businesses
10 participating in the programs and the amount of tax refunds
11 and other incentives awarded and claimed, the public has
12 access to information important to an assessment of the
13 performance of those programs.

14 Section 5. This act shall take effect upon becoming a
15 law.

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18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21
22 and insert:

23 A bill to be entitled
24 An act relating to public records; creating s.
25 288.1067, F.S.; creating a public-records
26 exemption for specified business information
27 received under the capital-investment
28 tax-credit program,
29 qualified-defense-contractor tax-refund
30 program, qualified target industry tax-refund
31 program, high impact sector performance

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1 program, and quick-action closing fund program;
2 specifying that the exemption does not preclude
3 publication of aggregate data or release of
4 names of qualifying businesses and refund
5 amounts; amending s. 213.053, F.S.; adding an
6 exception to the exemption; amending s.
7 443.1715, F.S.; adding an exception to the
8 exemption; providing a statement of public
9 necessity; providing an effective date.
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