

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on State Administration offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Subsections (1), (2), (3), and (4) of section 288.1067, Florida Statutes, are created and, effective upon the passage of House Bill 779, or similar legislation, subsection (5) of 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 or Enterprise Florida, Inc., and their employees or agents, pursuant to the incentive programs for qualified businesses as provided in ss. 220.191, 288.1045, 288.106, 288.108, or 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 program:

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1 (a) The business' federal employer identification
2 number, unemployment compensation account number, and Florida
3 sales tax registration number.

4 (b) Any trade secret information as defined in s.
5 812.081 contained in any description of the type of business
6 activity or product covered by the project or contained in any
7 statement concerning the qualified business' need for the tax
8 refund, tax credit, or incentive agreement program, or
9 concerning the proposed uses of the tax refund, tax credit, or
10 incentive agreement by the qualified business.

11 (c) The percentage of the business' sales occurring
12 outside of this state. For businesses applying under s.
13 288.1045, the percentage of the business' gross receipts
14 derived from Department of Defense contracts during the 5
15 years immediately preceding the date the business' application
16 is submitted.

17 (d) The anticipated wages for the project jobs that
18 the business plans to create, as reported on the application
19 for certification.

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

27 (f) Any proprietary business information regarding
28 capital investment in eligible building and equipment made by
29 the qualified business project when held by the Office of
30 Tourism, Trade, and Economic Development as evidence of the
31 achievement or non-achievement of the investment requirements

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1 for the tax credit certification under s. 202.191, for the
2 high impact performance agreement under s. 288.108, or for the
3 quick action closing fund agreement under s. 288.1088.

4 (g) The amount of:

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

7 2. Corporate income taxes paid pursuant to chapter
8 220;

9 3. Intangible personal property taxes paid pursuant to
10 chapter 199;

11 4. Emergency excise taxes paid pursuant to chapter
12 221;

13 5. Insurance premium taxes paid pursuant to chapter
14 624;

15 6. Excise taxes paid on documents pursuant to chapter
16 201; or

17 7. Ad valorem taxes paid, as defined in s. 220.03(1)

18
19 which the qualified business reports on its application for
20 certification or reports during the term of the tax refund
21 agreement for which the qualified business claims a tax refund
22 under ss. 288.1045 or 288.106, and any information held as
23 evidence of the achievement or non-achievement of performance
24 items contained in the tax refund agreement.

25 (2) Nothing contained in this section shall prevent
26 the Office of Tourism, Trade, and Economic Development or
27 Enterprise Florida, Inc. from releasing:

28 (a) The names of qualified businesses, the total
29 number of jobs each business expects to create, the total
30 number of jobs created by each business, and the amount of tax
31 refunds awarded to and claimed by each business under s.

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1 228.1045 or s. 288.106;

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

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

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

12 (4) 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 (5) The provisions of this section apply to a
17 qualified "aviation-industry business" as defined in s.
18 288.1045. In addition, the amount of aviation fuel taxes paid
19 pursuant to s. 206.9825, when reported on an application for
20 certification as an aviation-industry business or paid during
21 the term of the aviation-industry business' tax refund
22 agreement, and for which the qualified aviation-industry
23 business claims a tax refund under s. 288.1045, and is held as
24 evidence of the achievement, or non-achievement, of
25 performance items contained in the tax refund agreement, is
26 confidential and exempt from the provisions of s. 119.07(1)
27 and s. 24(a), Art. I of the State Constitution, when held by
28 the Office of Tourism, Trade, and Economic Development or
29 Enterprise Florida, Inc., and their employees or agents, for a
30 period not to exceed the duration of the tax refund agreement.

31 Section 2. Paragraph (k) of subsection (7) of section

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1 213.053, Florida Statutes, is amended to read:

2 213.053 Confidentiality and information sharing.--

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

5 (k) Payment information relative to chapters 199, 201,
6 212, 220, ~~and 221~~, and 624 to the Office of Tourism, Trade,
7 and Economic Development or its employees or agents, in its
8 administration of the tax refund program for qualified defense
9 contractors authorized by s. 288.1045 and the tax refund
10 program for qualified target industry businesses authorized by
11 s. 288.106. Information regarding tax credits received by a
12 business under s. 220.191 and exemptions or tax refunds
13 received by a business under s. 212.08(5)(j) held by the
14 Office of Tourism, Trade, and Economic Development, or its
15 employees or agents, in the administration and evaluation of
16 the capital investment tax credit program authorized in s.
17 220.191 and the semiconductor, defense, and space tax
18 exemption program authorized in s. 212.08(5)(j).

19 Section 3. Contingent upon the passage of House Bill
20 779 and effective upon becoming law subsection (7) of section
21 443.171, Florida Statutes, is amended to read:

22 443.171 Division and commission; powers and duties;
23 rules; advisory council; records and reports; proceedings;
24 state-federal cooperation.--

25 (7) RECORDS AND REPORTS.--Each employing unit shall
26 keep true and accurate work records, containing such
27 information as the division may prescribe. Such records shall
28 be open to inspection and be subject to being copied by the
29 division at any reasonable time and as often as may be
30 necessary. The division or an appeals referee may require from
31 any employing unit any sworn or unsworn reports, with respect

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1 to persons employed by it, deemed necessary for the effective
2 administration of this chapter. However, a state or local
3 governmental agency performing intelligence or
4 counterintelligence functions need not report an employee if
5 the head of such agency has determined that reporting the
6 employee could endanger the safety of the employee or
7 compromise an ongoing investigation or intelligence mission.
8 Information revealing the employing unit's or individual's
9 identity thus obtained from the employing unit or from any
10 individual pursuant to the administration of this chapter,
11 shall, except to the extent necessary for the proper
12 presentation of a claim or upon written authorization of the
13 claimant who has a workers' compensation claim pending, be
14 held confidential and exempt from the provisions of s.
15 119.07(1). Such information shall be available only to public
16 employees in the performance of their public duties, including
17 employees of the Department of Education in obtaining
18 information for the Florida Education and Training Placement
19 Information Program and the Office of Tourism, Trade, and
20 Economic Development in its administration of the ~~qualified~~
21 ~~defense contractor~~ tax refund program for qualified defense
22 contractors and aviation-industry businesses authorized by s.
23 288.1045 and the qualified target industry business tax
24 refund program authorized by s. 288.106. Any claimant, or the
25 claimant's legal representative, at a hearing before an
26 appeals referee or the commission shall be supplied with
27 information from such records to the extent necessary for the
28 proper presentation of her or his claim. Any employee or
29 member of the commission or any employee of the division, or
30 any other person receiving confidential information, who
31 violates any provision of this subsection is guilty of a

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1 misdemeanor of the second degree, punishable as provided in s.
2 775.082 or s. 775.083. However, the division may furnish to
3 any employer copies of any report previously submitted by such
4 employer, upon the request of such employer, and the division
5 is authorized to charge therefor such reasonable fee as the
6 division may by rule prescribe not to exceed the actual
7 reasonable cost of the preparation of such copies. Fees
8 received by the division for copies provided under this
9 subsection shall be deposited to the credit of the Employment
10 Security Administration Trust Fund.

11 Section 4. Contingent upon the passage of House Bill
12 779 and effective upon becoming law subsection (1) of section
13 443.1715, Florida Statutes, is amended to read:

14 443.1715 Disclosure of information; confidentiality.--

15 (1) RECORDS AND REPORTS.--Information revealing the
16 employing unit's or individual's identity obtained from the
17 employing unit or from any individual pursuant to the
18 administration of this chapter, and any determination
19 revealing such information, ~~must~~, except to the extent
20 necessary for the proper presentation of a claim or upon
21 written authorization of the claimant who has a workers'
22 compensation claim pending, must be held confidential and
23 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
24 I of the State Constitution. Such information may be made
25 available only to public employees in the performance of their
26 public duties, including employees of the Department of
27 Education in obtaining information for the Florida Education
28 and Training Placement Information Program and the Office of
29 Tourism, Trade, and Economic Development in its administration
30 of the ~~qualified defense contractor~~ tax refund program for
31 qualified defense contractors and aviation-industry businesses

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

23 Section 5. The Legislature finds that it is a public
24 necessity to provide confidentiality for certain information
25 about businesses that is obtained through the administration
26 of the tax refund, tax credit, and incentive programs for
27 qualified defense contractors, qualified target-industry
28 businesses, high-impact performance incentive businesses,
29 quick-action closing fund businesses, capital investment tax
30 credit businesses, and aviation-industry businesses under ss.
31 220.191, 288.1045, 288.106, 288.108, and 288.1088, Florida

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1 Statutes. The disclosure of information such as trade
2 secrets, tax identification numbers, analyses of gross
3 receipts, the amount of taxes paid, amount of capital
4 investment, and the amount of employee wages paid, and the
5 detailed documentation to substantiate such performance
6 information, could injure a business in the marketplace by
7 providing its competitors with detailed insights into the
8 financial status and the strategic plans of the business,
9 thereby diminishing the advantage that the business maintains
10 over those who do not possess such information. Some of the
11 documentation supplied to support a businesses' tax refund and
12 credit claims, or other incentive claims, could reveal private
13 information about that businesses' employees such as names and
14 social security numbers. Without this exemption,
15 private-sector businesses, whose records generally are not
16 required to be open to the public, might refrain from
17 participating in these economic development programs and thus
18 would not be able to use the the tax refunds available under
19 the programs. If a business was unable to use the tax refund,
20 it might choose to locate its employment and other investment
21 activities outside the state, depriving the state and the
22 public of the potential economic benefits associated with such
23 business activities in Florida. The harm to businesses in the
24 marketplace and to the effective administration of these
25 economic development programs caused by the public disclosure
26 of such information far outweighs the public benefits derived
27 from its release. In addition, because the confidentiality
28 provided by this act does not preclude the reporting of
29 statistics in the aggregate about the programs, as well as the
30 names of businesses participating in the programs and the
31 amount of tax refunds and other incentives awarded and

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1 claimed, the public has access to information important to an
2 assessment of the performance of those programs.

3 Section 6. This act shall take effect upon becoming
4 law, except as otherwise provided.

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

8 And the title is amended as follows:

9 On page 1, lines 5 through 15,
10 remove: all of said lines

11

12 and insert:

13 received under the capital investment tax
14 credit program, qualified defense contractors
15 tax refund program, qualified target industry
16 tax refund program, high impact sector
17 performance program, and quick action closing
18 fund program; specifying that the exemption
19 does not preclude publication of aggregate data
20 or release of names of qualifying businesses
21 and refund amounts; providing that the public
22 records exemption applies to qualified
23 aviation-industry businesses; amending s.
24 214.053, F.S.; adding an exception to the
25 exemption; amending s. 443.171, F.S.; adding an
26 exception to the exemption; amending s.
27 443.1715, F.S.; adding an exception to the
28 exemption; providing a

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