

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 capital-investment
6 tax-credit program,
7 qualified-defense-contractor tax-refund
8 program, qualified target industry tax-refund
9 program, high impact sector performance
10 program, and quick-action closing fund program;
11 specifying that the exemption does not preclude
12 publication of aggregate data or release of
13 names of qualifying businesses and refund
14 amounts; amending s. 213.053, F.S.; adding an
15 exception to the exemption; amending s.
16 443.1715, F.S.; adding an exception to the
17 exemption; providing a statement of public
18 necessity; providing an effective date.

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

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

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288.1067 Confidentiality of records.--

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26 (1) The following information held by the Office of
27 Tourism, Trade, and Economic Development, Enterprise Florida,
28 Inc., or county or municipal governmental entities, and their
29 employees or agents, pursuant to the incentive programs for
30 s. 288.106, s. 288.108, or s. 288.1088 is confidential and
31 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.

1 I of the State Constitution, for a period not to exceed the
2 duration of the relevant tax refund, tax credit, or incentive
3 agreement:

4 (a) The business's federal employer identification
5 number, unemployment compensation account number, and Florida
6 sales tax registration number.

7 (b) Any trade secret information as defined in s.
8 812.081. Notwithstanding any provision of this section, trade
9 secret information shall continue to be confidential and
10 exempt after the duration of the tax refund, tax credit, or
11 incentive agreement.

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

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

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

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

1 achievement or nonachievement of the investment requirements
2 for the tax-credit certification under s. 220.191, for the
3 high-impact performance agreement under s. 288.108, or for the
4 quick-action closing fund agreement under s. 288.1088.

5 (g) The amount of:

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

8 2. Corporate income taxes paid pursuant to chapter
9 220;

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

12 4. Emergency excise taxes paid pursuant to chapter
13 221;

14 5. Insurance premium taxes paid pursuant to chapter
15 624;

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

18 7. Ad valorem taxes paid, as defined in s. 220.03(1),
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20 which the qualified business reports on its application for
21 certification or reports during the term of the tax refund
22 agreement, and for which the qualified business claims a tax
23 refund under s. 288.1045 or s. 288.106, and any such
24 information held as evidence of the achievement or
25 nonachievement of performance items contained in the tax
26 refund agreement.

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

30 (a) The names of qualified businesses, the total
31 number of jobs each business expects to create, the total

1 number of jobs created by each business, and the amount of tax
2 refunds awarded to and claimed by each business under s.
3 228.1045 or s. 288.106. However, for a business applying under
4 s. 288.1045 based on obtaining a new Department of Defense
5 contract, the total number of jobs expected and the amount of
6 tax refunds claimed shall not be released until the new
7 Department of Defense contract is awarded;

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

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

13 (3) Nothing contained in this section shall prevent
14 the Office of Tourism, Trade and Economic Development or
15 Enterprise Florida, Inc., from publishing statistics in the
16 aggregate and so classified as to prevent the identification
17 of a single qualified applicant.

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

22 Section 2. Paragraph (k) of subsection (7) of section
23 213.053, Florida Statutes, is amended to read:

24 213.053 Confidentiality and information sharing.--

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

27 (k)1. Payment information relative to chapters 199,
28 201, 212, 220, ~~and~~ 221, and 624 to the Office of Tourism,
29 Trade, and Economic Development, or its employees or agents
30 that are identified in writing by the office to the
31 department, in the ~~its~~ administration of the tax refund

1 program for qualified defense contractors authorized by s.
2 288.1045 and the tax refund program for qualified target
3 industry businesses authorized by s. 288.106.

4 2. Information relative to tax credits taken by a
5 business under s. 220.191 and exemptions or tax refunds
6 received by a business under s. 212.08(5)(j) to the Office of
7 Tourism, Trade, and Economic Development, or its employees or
8 agents that are identified in writing by the office to the
9 department, in the administration and evaluation of the
10 capital investment tax credit program authorized in s. 220.191
11 and the semiconductor, defense, and space tax exemption
12 program authorized in s. 212.08(5)(j).

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

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

23 443.1715 Disclosure of information; confidentiality.--

24 (1) RECORDS AND REPORTS.--Information revealing the
25 employing unit's or individual's identity obtained from the
26 employing unit or from any individual pursuant to the
27 administration of this chapter, and any determination
28 revealing such information, ~~must~~, except to the extent
29 necessary for the proper presentation of a claim or upon
30 written authorization of the claimant who has a workers'
31 compensation claim pending, must be held confidential and

1 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
2 I of the State Constitution. Such information may be made
3 available only to public employees in the performance of their
4 public duties, including employees of the Department of
5 Education in obtaining information for the Florida Education
6 and Training Placement Information Program and the Office of
7 Tourism, Trade, and Economic Development in its administration
8 of the qualified defense contractor tax refund program
9 authorized by s. 288.1045 and the qualified target industry
10 tax refund program authorized by s. 288.106. Except as
11 otherwise provided by law, public employees receiving such
12 information must retain the confidentiality of such
13 information. Any claimant, or the claimant's legal
14 representative, at a hearing before an appeals referee or the
15 commission shall be supplied with information from such
16 records to the extent necessary for the proper presentation of
17 her or his claim. Any employee or member of the commission or
18 any employee of the division, or any other person receiving
19 confidential information, who violates any provision of this
20 subsection commits a misdemeanor of the second degree,
21 punishable as provided in s. 775.082 or s. 775.083. However,
22 the division may furnish to any employer copies of any report
23 previously submitted by such employer, upon the request of
24 such employer, and may furnish to any claimant copies of any
25 report previously submitted by such claimant, upon the request
26 of such claimant, and the division is authorized to charge
27 therefor such reasonable fee as the division may by rule
28 prescribe not to exceed the actual reasonable cost of the
29 preparation of such copies. Fees received by the division for
30 copies as provided in this subsection must be deposited to the
31 credit of the Employment Security Administration Trust Fund.

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

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

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

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