

577-2106-06

Proposed Committee Substitute by the Committee on Commerce and Consumer Services

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A bill to be entitled

An act relating to public-records exemptions; amending s. 288.1067, F.S.; expanding the public-records exemption for incentive programs to include the Innovation Incentive Program under s. 288.1089, F.S.; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsections (1) and (4) of section 288.1067, Florida Statutes, are amended 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, or s. 288.1089 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 sales tax registration number.

(b) Any trade secret information as defined in s. 812.081. Notwithstanding any provision of this section, trade secret information shall continue to be confidential and

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1 exempt after the duration of the tax refund, tax credit, or
2 incentive agreement.

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

9 (d) The anticipated wages for the project jobs that
10 the business plans to create, as reported on the application
11 for certification.

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

19 (f) Any proprietary business information regarding
20 capital investment in eligible building and equipment made by
21 the qualified business project when held by the Office of
22 Tourism, Trade, and Economic Development as evidence of the
23 achievement or nonachievement of the investment requirements
24 for the tax credit certification under s. 220.191, for the
25 high-impact performance agreement under s. 288.108, ~~or~~ for the
26 Quick Action Closing Fund agreement under s. 288.1088, or for
27 the Innovation Incentive Program agreement under s. 288.1089.

28 (g) The amount of:

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

31 2. Corporate income taxes paid pursuant to chapter

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1 220;

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

4 4. Emergency excise taxes paid pursuant to chapter
5 221;

6 5. Insurance premium taxes paid pursuant to chapter
7 624;

8 6. Excise taxes paid on documents pursuant to chapter
9 201; or

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

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12 which the qualified business reports on its application for
13 certification or reports during the term of the tax refund
14 agreement, and for which the qualified business claims a tax
15 refund under s. 288.1045 or s. 288.106, and any such
16 information held as evidence of the achievement or
17 nonachievement of performance items contained in the tax
18 refund agreement.

19 (4) This section is subject to the Open Government
20 Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and
21 shall stand repealed on October 2, 2011 ~~2007~~, unless reviewed
22 and saved from repeal through reenactment by the Legislature.

23 Section 2. The Legislature finds that it is a public
24 necessity to provide confidentiality for certain information
25 concerning businesses that is obtained through the
26 administration of the Innovation Incentive Program for
27 qualified innovation businesses under s. 288.1089, Florida
28 Statutes. The disclosure of information such as trade secrets,
29 tax identification numbers, analyses of gross receipts, the
30 amount of taxes paid, the amount of capital investment, and
31 the amount of employee wages paid, and the detailed

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1 documentation to substantiate such performance information,
2 could injure a business in the marketplace by providing its
3 competitors with detailed insights into the financial status
4 and the strategic plans of the business, thereby diminishing
5 the advantage that the business maintains over those that do
6 not possess such information. Some of the documentation
7 supplied to support a business's incentive claims could reveal
8 private information, such as employee names and social
9 security numbers, concerning that business's employees.
10 Without this exemption, private-sector businesses, whose
11 records generally are not required to be open to the public,
12 might refrain from participating in the economic development
13 program and thus would not be able to use the incentives
14 available under the program. If a business were unable to use
15 the incentives, the business might choose to locate its
16 employment and other investment activities outside the state,
17 depriving the state and the public of the potential economic
18 benefits associated with such business activities in this
19 state. The harm to businesses in the marketplace and to the
20 effective administration of the economic development program
21 caused by the public disclosure of such information far
22 outweighs the public benefits derived from its release. In
23 addition, because the confidentiality provided by s. 288.1067,
24 Florida Statutes, does not preclude the reporting of
25 statistics in the aggregate concerning the program, as well as
26 the names of businesses participating in the program and the
27 amount of incentives awarded and claimed, the public has
28 access to information important to an assessment of the
29 performance of the program.

30 Section 3. This act shall take effect July 1, 2006, if
31 Senate Bill 2728 or similar legislation is adopted in the same

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1 legislative session or an extension thereof and becomes a law.
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