

By the Committee on Commerce and Consumer Services; and
Senator King

577-2208-06

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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

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;
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- 1 2. Corporate income taxes paid pursuant to chapter
2 220;
- 3 3. Intangible personal property taxes paid pursuant to
4 chapter 199;
- 5 4. Emergency excise taxes paid pursuant to chapter
6 221;
- 7 5. Insurance premium taxes paid pursuant to chapter
8 624;
- 9 6. Excise taxes paid on documents pursuant to chapter
10 201; or
- 11 7. Ad valorem taxes paid, as defined in s. 220.03(1),

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

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22 shall stand repealed on October 2, 2011 ~~2007~~, unless reviewed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

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

1 the amount of employee wages paid, and the detailed
2 documentation to substantiate such performance information,
3 could injure a business in the marketplace by providing its
4 competitors with detailed insights into the financial status
5 and the strategic plans of the business, thereby diminishing
6 the advantage that the business maintains over those that do
7 not possess such information. Some of the documentation
8 supplied to support a business's incentive claims could reveal
9 private information, such as employee names and social
10 security numbers, concerning that business's employees.
11 Without this exemption, private-sector businesses, whose
12 records generally are not required to be open to the public,
13 might refrain from participating in the economic development
14 program and thus would not be able to use the incentives
15 available under the program. If a business were unable to use
16 the incentives, the business might choose to locate its
17 employment and other investment activities outside the state,
18 depriving the state and the public of the potential economic
19 benefits associated with such business activities in this
20 state. The harm to businesses in the marketplace and to the
21 effective administration of the economic development program
22 caused by the public disclosure of such information far
23 outweighs the public benefits derived from its release. In
24 addition, because the confidentiality provided by s. 288.1067,
25 Florida Statutes, does not preclude the reporting of
26 statistics in the aggregate concerning the program, as well as
27 the names of businesses participating in the program and the
28 amount of incentives awarded and claimed, the public has
29 access to information important to an assessment of the
30 performance of the program.
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1 Section 3. This act shall take effect July 1, 2006, if
2 Senate Bill 2728 or similar legislation is adopted in the same
3 legislative session or an extension thereof and becomes a law.
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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 1136

8 This committee substitute creates an exemption from Florida's
9 public records law for trade secrets and certain other
10 information held by the Office of Tourism, Trade, and Economic
11 Development, Enterprise Florida, Inc., or county or municipal
12 governmental entities and their employees or agents relating
13 to the Florida Innovation Incentive Fund created by CS/SB 2728
14 (2006).
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