

CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to public records exemptions; amending s.
7 288.1067, F.S.; expanding the public records exemption for
8 incentive programs to include the Innovation Incentive
9 Program under s. 288.1089, F.S.; providing for future
10 review and repeal; providing a statement of public
11 necessity; providing a contingent effective date.
12

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

14
15 Section 1. Subsections (1) and (4) of section 288.1067,
16 Florida Statutes, are amended to read:

17 288.1067 Confidentiality of records.--

18 (1) The following information held by the Office of
19 Tourism, Trade, and Economic Development, Enterprise Florida,
20 Inc., or county or municipal governmental entities, and their
21 employees or agents, pursuant to the incentive programs for
22 qualified businesses as provided in s. 220.191, s. 288.1045, s.
23 288.106, s. 288.108, ~~s. 288.1088~~, or s. 288.1089 is

HB 1285

2006
CS

24 | confidential and exempt from the provisions of s. 119.07(1) and
25 | s. 24(a), Art. I of the State Constitution, for a period not to
26 | exceed the duration of the relevant tax refund, tax credit, or
27 | incentive agreement:

28 | (a) The business's federal employer identification number,
29 | unemployment compensation account number, and Florida sales tax
30 | registration number.

31 | (b) Any trade secret information as defined in s. 812.081.
32 | Notwithstanding any provision of this section, trade secret
33 | information shall continue to be confidential and exempt after
34 | the duration of the tax refund, tax credit, or incentive
35 | agreement.

36 | (c) The percentage of the business's sales occurring
37 | outside this state and, for businesses applying under s.
38 | 288.1045, the percentage of the business's gross receipts
39 | derived from Department of Defense contracts during the 5 years
40 | immediately preceding the date the business's application is
41 | submitted.

42 | (d) The anticipated wages for the project jobs that the
43 | business plans to create, as reported on the application for
44 | certification.

45 | (e) The average wage actually paid by the business for
46 | those jobs created by the project and any detailed proprietary
47 | business information or an employee's personal identifying
48 | information, held as evidence of the achievement or
49 | nonachievement of the wage requirements of the tax refund, tax
50 | credit, or incentive agreement programs or of the job creation
51 | requirements of such programs.

HB 1285

2006
CS

52 (f) Any proprietary business information regarding capital
 53 investment in eligible building and equipment made by the
 54 qualified business project when held by the Office of Tourism,
 55 Trade, and Economic Development as evidence of the achievement
 56 or nonachievement of the investment requirements for the tax
 57 credit certification under s. 220.191, for the high-impact
 58 performance agreement under s. 288.108, ~~or~~ for the Quick Action
 59 Closing Fund agreement under s. 288.1088, or for the Innovation
 60 Incentive Program agreement under s. 288.1089.

61 (g) The amount of:

- 62 1. Taxes on sales, use, and other transactions paid
- 63 pursuant to chapter 212;
- 64 2. Corporate income taxes paid pursuant to chapter 220;
- 65 3. Intangible personal property taxes paid pursuant to
- 66 chapter 199;
- 67 4. Emergency excise taxes paid pursuant to chapter 221;
- 68 5. Insurance premium taxes paid pursuant to chapter 624;
- 69 6. Excise taxes paid on documents pursuant to chapter 201;

70 or

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

72

73 which the qualified business reports on its application for
 74 certification or reports during the term of the tax refund
 75 agreement, and for which the qualified business claims a tax
 76 refund under s. 288.1045 or s. 288.106, and any such information
 77 held as evidence of the achievement or nonachievement of
 78 performance items contained in the tax refund agreement.

HB 1285

2006
CS

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

83 Section 2. The Legislature finds that it is a public
84 necessity to provide confidentiality for certain information
85 concerning businesses that is obtained through the
86 administration of the Innovation Incentive Program for qualified
87 innovation businesses under s. 288.1089, Florida Statutes. The
88 disclosure of information such as trade secrets, tax
89 identification numbers, analyses of gross receipts, the amount
90 of taxes paid, the amount of capital investment, and the amount
91 of employee wages paid, and the detailed documentation to
92 substantiate such performance information, could injure a
93 business in the marketplace by providing its competitors with
94 detailed insights into the financial status and the strategic
95 plans of the business, thereby diminishing the advantage that
96 the business maintains over those that do not possess such
97 information. Without this exemption, private sector businesses,
98 whose records generally are not required to be open to the
99 public, might refrain from participating in the economic
100 development program and thus would not be able to use the
101 incentives available under the program. If a business were
102 unable to use the incentives, the business might choose to
103 locate its employment and other investment activities outside
104 the state, depriving the state and the public of the potential
105 economic benefits associated with such business activities in
106 this state. The harm to businesses in the marketplace and to the

HB 1285

2006
CS

107 effective administration of the economic development program
108 caused by the public disclosure of such information far
109 outweighs the public benefits derived from its release. In
110 addition, because the confidentiality provided by s. 288.1067,
111 Florida Statutes, does not preclude the reporting of statistics
112 in the aggregate concerning the program, as well as the names of
113 businesses participating in the program and the amount of
114 incentives awarded and claimed, the public has access to
115 information important to an assessment of the performance of the
116 program.

117 Section 3. This act shall take effect July 1, 2006, if
118 House Bill 1283 or similar legislation is adopted in the same
119 legislative session or an extension thereof and becomes a law.