

ENROLLED
 HB 1285, Engrossed 1

2006 Legislature

1 A bill to be entitled
 2 An act relating to public records exemptions; amending s.
 3 288.1067, F.S.; expanding the public records exemption for
 4 incentive programs to include the Innovation Incentive
 5 Program under s. 288.1089, F.S.; providing for future
 6 review and repeal; providing a statement of public
 7 necessity; providing a contingent effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsections (1) and (4) of section 288.1067,
 12 Florida Statutes, are amended to read:

13 288.1067 Confidentiality of records.--

14 (1) The following information held by the Office of
 15 Tourism, Trade, and Economic Development, Enterprise Florida,
 16 Inc., or county or municipal governmental entities, and their
 17 employees or agents, pursuant to the incentive programs for
 18 qualified businesses as provided in s. 220.191, s. 288.1045, s.
 19 288.106, s. 288.108, ~~or~~ s. 288.1088, or s. 288.1089 is
 20 confidential and exempt from the provisions of s. 119.07(1) and
 21 s. 24(a), Art. I of the State Constitution, for a period not to
 22 exceed the duration of the relevant tax refund, tax credit, or
 23 incentive agreement:

24 (a) The business's federal employer identification number,
 25 unemployment compensation account number, and Florida sales tax
 26 registration number.

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

32 (c) The percentage of the business's sales occurring
33 outside this state and, for businesses applying under s.
34 288.1045, the percentage of the business's gross receipts
35 derived from Department of Defense contracts during the 5 years
36 immediately preceding the date the business's application is
37 submitted.

38 (d) The anticipated wages for the project jobs that the
39 business plans to create, as reported on the application for
40 certification.

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

48 (f) Any proprietary business information regarding capital
49 investment in eligible building and equipment made by the
50 qualified business project when held by the Office of Tourism,
51 Trade, and Economic Development as evidence of the achievement
52 or nonachievement of the investment requirements for the tax
53 credit certification under s. 220.191, for the high-impact

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54 performance agreement under s. 288.108, ~~or~~ for the Quick Action
 55 Closing Fund agreement under s. 288.1088, or for the Innovation
 56 Incentive Program agreement under s. 288.1089.

- 57 (g) The amount of:
- 58 1. Taxes on sales, use, and other transactions paid
 - 59 pursuant to chapter 212;
 - 60 2. Corporate income taxes paid pursuant to chapter 220;
 - 61 3. Intangible personal property taxes paid pursuant to
 - 62 chapter 199;
 - 63 4. Emergency excise taxes paid pursuant to chapter 221;
 - 64 5. Insurance premium taxes paid pursuant to chapter 624;
 - 65 6. Excise taxes paid on documents pursuant to chapter 201;

66 or

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

68

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

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

79 Section 2. The Legislature finds that it is a public
 80 necessity to provide confidentiality for certain information

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81 concerning businesses that is obtained through the
82 administration of the Innovation Incentive Program for qualified
83 innovation businesses under s. 288.1089, Florida Statutes. The
84 disclosure of information such as trade secrets, tax
85 identification numbers, analyses of gross receipts, the amount
86 of taxes paid, the amount of capital investment, and the amount
87 of employee wages paid, and the detailed documentation to
88 substantiate such performance information, could injure a
89 business in the marketplace by providing its competitors with
90 detailed insights into the financial status and the strategic
91 plans of the business, thereby diminishing the advantage that
92 the business maintains over those that do not possess such
93 information. Without this exemption, private sector businesses,
94 whose records generally are not required to be open to the
95 public, might refrain from participating in the economic
96 development program and thus would not be able to use the
97 incentives available under the program. If a business were
98 unable to use the incentives, the business might choose to
99 locate its employment and other investment activities outside
100 the state, depriving the state and the public of the potential
101 economic benefits associated with such business activities in
102 this state. The harm to businesses in the marketplace and to the
103 effective administration of the economic development program
104 caused by the public disclosure of such information far
105 outweighs the public benefits derived from its release. In
106 addition, because the confidentiality provided by s. 288.1067,
107 Florida Statutes, does not preclude the reporting of statistics

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108 | in the aggregate concerning the program, as well as the names of
109 | businesses participating in the program and the amount of
110 | incentives awarded and claimed, the public has access to
111 | information important to an assessment of the performance of the
112 | program.

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