

HB 7017

2006  
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CHAMBER ACTION

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1 The State Administration Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5  
6 A bill to be entitled

7 An act relating to a review under the Open Government  
8 Sunset Review Act regarding economic development agencies;  
9 amending s. 288.075, F.S., which provides an exemption  
10 from public records requirements for information held by  
11 an economic development agency concerning plans,  
12 intentions, or interests of a private corporation,  
13 partnership, or person to locate, relocate, or expand any  
14 of its business activities in this state; reorganizing  
15 provisions; making editorial changes; removing superfluous  
16 provisions; removing the scheduled expiration of the  
17 exemption under the Open Government Sunset Review Act;  
18 providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Section 288.075, Florida Statutes, is amended  
23 to read:

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24 | 288.075 Confidentiality of records.--

25 | (1) As used in this section, the term "economic  
26 | development agency" means:

27 | (a) The Office of Tourism, Trade, and Economic  
28 | Development;i~~;~~

29 | (b) Any industrial development authority created in  
30 | accordance with part III of chapter 159 or by special law;i~~;~~

31 | (c) The Florida Space Authority created in part II of  
32 | chapter 331;i~~;~~

33 | (d) The Florida Aerospace Finance Corporation created in  
34 | part III of chapter 331;i~~;~~

35 | (e) The public economic development agency of a county or  
36 | municipality;i~~;~~~~or~~

37 | (f) Any research and development authority created in  
38 | accordance with part V of chapter 159; or. ~~The term also~~  
39 | ~~includes~~

40 | (g) Any private agency, person, partnership, corporation,  
41 | or business entity when authorized by the state, a municipality,  
42 | or a county to promote the general business interests or  
43 | industrial interests of the state or that municipality or  
44 | county.

45 | (2) Upon written request from a private corporation,  
46 | partnership, or person, ~~records of an economic development~~  
47 | ~~agency which contain or would provide~~ information held by an  
48 | economic development agency concerning plans, intentions, or  
49 | interests of such private corporation, partnership, or person to  
50 | locate, relocate, or expand any of its business activities in  
51 | this state is ~~are~~ confidential and exempt from s. 119.07(1) and

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52 | s. 24(a), Art. I of the State Constitution for 24 months after  
 53 | the date an economic development agency receives a request for  
 54 | confidentiality or until the ~~disclosed by an economic~~  
 55 | ~~development agency pursuant to subsection (4) or by the party~~  
 56 | ~~requesting confidentiality under this section. Confidentiality~~  
 57 | ~~must be maintained until the expiration of the 24-month period~~  
 58 | ~~or until documents or information is are otherwise disclosed,~~  
 59 | ~~whichever occurs first. Any confidentiality provided under this~~  
 60 | ~~section does not apply when any party petitions a court of~~  
 61 | ~~competent jurisdiction and, in the opinion of the court, proves~~  
 62 | ~~need for access to such documents. This exemption expires~~  
 63 | ~~October 2, 2006, and is subject to review by the Legislature~~  
 64 | ~~under the Open Government Sunset Review Act of 1995 in~~  
 65 | ~~accordance with s. 119.15.~~

66 |       ~~(3) This section does not waive any provision of chapter~~  
 67 | ~~120 or any other provision of law requiring a public hearing.~~

68 |       ~~(4) A public officer or employee may not enter into a~~  
 69 | ~~binding agreement with any corporation, partnership, or person~~  
 70 | ~~who has requested confidentiality of information pursuant to~~  
 71 | ~~this section, until 90 days after such information is made~~  
 72 | ~~public, unless such public officer or employee is acting in an~~  
 73 | ~~official capacity, the agreement does not accrue to the personal~~  
 74 | ~~benefit of such public officer or employee, and, in the~~  
 75 | ~~professional judgment of such officer or employee, the agreement~~  
 76 | ~~is necessary to effectuate an economic development project.~~

77 |       ~~(3)-(5)~~ (3) An economic development agency may extend the  
 78 | period of confidentiality specified in subsection (2) for up to  
 79 | an additional 12 months upon written request from the private

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80 corporation, partnership, or person who originally requested  
81 confidentiality under this section and upon a finding by the  
82 economic development agency that such private corporation,  
83 partnership, or person is still actively considering locating,  
84 relocating, or expanding its business activities in this state.  
85 Such a request for an extension in the period of confidentiality  
86 must be received prior to the expiration of any confidentiality  
87 originally provided under this section.

88 ~~(4) (6) Notwithstanding the period of confidentiality~~  
89 ~~specified in subsection (2), Trade secrets, as defined by s.~~  
90 ~~812.081, contained in the records of an economic development~~  
91 ~~agency relating to the plans, intentions, or interests of a~~  
92 ~~corporation, partnership, or person who has requested~~  
93 ~~confidentiality pursuant to this section are confidential and~~  
94 ~~exempt from s. 119.07(1) and s. 24(a), Art. I of the State~~  
95 ~~Constitution for 10 years after the date an economic development~~  
96 ~~agency receives a request for confidentiality or until otherwise~~  
97 ~~disclosed, whichever occurs first. The 10 year period of~~  
98 ~~confidentiality provided by this subsection does not apply to~~  
99 ~~any portion of the records other than trade secrets as defined~~  
100 ~~by s. 812.081.~~

101 (5) A public officer or employee may not enter into a  
102 binding agreement with any corporation, partnership, or person  
103 who has requested confidentiality of information pursuant to  
104 this section until 90 days after the information is made public  
105 unless:

106 (a) The public officer or employee is acting in an  
107 official capacity;

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108 | (b) The agreement does not accrue to the personal benefit  
109 | of such public officer or employee; and

110 | (c) In the professional judgment of the officer or  
111 | employee, the agreement is necessary to effectuate an economic  
112 | development project.

113 | (6)~~(7)~~ Any person who is an employee of an economic  
114 | development agency who violates the provisions of this section  
115 | commits a misdemeanor of the second degree, punishable as  
116 | provided in s. 775.082 or s. 775.083.

117 | Section 2. This act shall take effect October 1, 2006.