

By the Committee on Commerce and Consumer Services

577-581A-06

1                                 A bill to be entitled  
2             An act relating to a review under the Open  
3             Government Sunset Review Act; amending s.  
4             288.075, F.S., relating to an exemption from  
5             public-records requirements provided for  
6             information held by the Office of Tourism,  
7             Trade, and Economic Development, an industrial  
8             development authority, the Florida Space  
9             Authority, the Florida Aerospace Finance  
10            Corporation, a public economic development  
11            agency of a county or municipality, a research  
12            and development authority, or a private agency  
13            or other business entity authorized by the  
14            state, a municipality, or a county to promote  
15            certain business interests; restating  
16            applicability of provisions relating to trade  
17            secrets; deleting a provision authorizing a  
18            court to allow access to such information under  
19            certain circumstances; saving the exemption  
20            from repeal under the Open Government Sunset  
21            Review Act; deleting provisions providing for  
22            the repeal of the exemption; providing an  
23            effective date.  
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25     Be It Enacted by the Legislature of the State of Florida:  
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27            Section 1. Section 288.075, Florida Statutes, is  
28     amended to read:  
29            288.075 Confidentiality of records.--  
30            (1) As used in this section, the term "economic  
31     development agency" means:

1           (a) The Office of Tourism, Trade, and Economic  
2 Development;;

3           (b) Any industrial development authority created in  
4 accordance with part III of chapter 159 or by special law;;

5           (c) The Florida Space Authority created in part II of  
6 chapter 331;;

7           (d) The Florida Aerospace Finance Corporation created  
8 in part III of chapter 331;;

9           (e) The public economic development agency of a county  
10 or municipality;; ~~or~~

11           (f) Any research and development authority created in  
12 accordance with part V of chapter 159; or. ~~The term also~~  
13 ~~includes~~

14           (g) Any private agency, person, partnership,  
15 corporation, or business entity when authorized by the state,  
16 a municipality, or a county to promote the general business  
17 interests or industrial interests of the state or that  
18 municipality or county.

19           (2) Upon written request from a private corporation,  
20 partnership, or person, ~~records of an economic development~~  
21 ~~agency which contain or would provide~~ information held by an  
22 economic development agency concerning plans, intentions, or  
23 interests of such private corporation, partnership, or person  
24 to locate, relocate, or expand any of its business activities  
25 in this state is ~~are~~ confidential and exempt from s. 119.07(1)  
26 and s. 24(a), Art. I of the State Constitution for 24 months  
27 after the date an economic development agency receives a  
28 request for confidentiality or until the ~~disclosed by an~~  
29 ~~economic development agency pursuant to subsection (4) or by~~  
30 ~~the party requesting confidentiality under this section.~~  
31 ~~Confidentiality must be maintained until the expiration of the~~

1 ~~24 month period or until documents or information is are~~  
2 otherwise disclosed, whichever occurs first. ~~Any~~  
3 ~~confidentiality provided under this section does not apply~~  
4 ~~when any party petitions a court of competent jurisdiction~~  
5 ~~and, in the opinion of the court, proves need for access to~~  
6 ~~such documents. This exemption expires October 2, 2006, and is~~  
7 ~~subject to review by the Legislature under the Open Government~~  
8 ~~Sunset Review Act of 1995 in accordance with s. 119.15.~~

9 ~~(3) This section does not waive any provision of~~  
10 ~~chapter 120 or any other provision of law requiring a public~~  
11 ~~hearing.~~

12 ~~(4) A public officer or employee may not enter into a~~  
13 ~~binding agreement with any corporation, partnership, or person~~  
14 ~~who has requested confidentiality of information pursuant to~~  
15 ~~this section, until 90 days after such information is made~~  
16 ~~public, unless such public officer or employee is acting in an~~  
17 ~~official capacity, the agreement does not accrue to the~~  
18 ~~personal benefit of such public officer or employee, and, in~~  
19 ~~the professional judgment of such officer or employee, the~~  
20 ~~agreement is necessary to effectuate an economic development~~  
21 ~~project.~~

22 ~~(3)(5)~~ (3) An economic development agency may extend the  
23 period of confidentiality specified in subsection (2) for up  
24 to an additional 12 months upon written request from the  
25 private corporation, partnership, or person who originally  
26 requested confidentiality under this section and upon a  
27 finding by the economic development agency that such private  
28 corporation, partnership, or person is still actively  
29 considering locating, relocating, or expanding its business  
30 activities in this state. Such a request for an extension in  
31 the period of confidentiality must be received prior to the

1 expiration of any confidentiality originally provided under  
2 this section.

3 ~~(4)(6) Notwithstanding the period of confidentiality~~  
4 ~~specified in subsection (2),~~ Trade secrets, as defined by s.  
5 812.081, contained in the records of an economic development  
6 agency relating to the plans, intentions, or interests of a  
7 corporation, partnership, or person who has requested  
8 confidentiality pursuant to this section are confidential and  
9 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
10 Constitution for 10 years after the date an economic  
11 development agency receives a request for confidentiality or  
12 until otherwise disclosed, whichever occurs first. ~~The 10-year~~  
13 ~~period of confidentiality provided by this subsection does not~~  
14 ~~apply to any portion of the records other than trade secrets~~  
15 ~~as defined by s. 812.081.~~

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

21 (a) The public officer or employee is acting in an  
22 official capacity;

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

25 (c) In the professional judgment of the officer or  
26 employee, the agreement is necessary to effectuate an economic  
27 development project.

28 ~~(6)(7)~~ Any person who is an employee of an economic  
29 development agency who violates the provisions of this section  
30 commits a misdemeanor of the second degree, punishable as  
31 provided in s. 775.082 or s. 775.083.

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

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SENATE SUMMARY

Revises the exemption from the public-records law for information held by the Office of Tourism, Trade, and Economic Development, an industrial development authority, the Florida Space Authority, the Florida Aerospace Finance Corporation, a public economic development agency of a county or municipality, a research and development authority, or a private agency or other business entity authorized by the state, a municipality, or a county to promote certain business interests. Removes the repeal of the exemption scheduled on October 2, 2006, under the Open Government Sunset Review Act.