

By the Committee on Higher Education Appropriations; and
Senator Lynn

605-2086-07

1 A bill to be entitled
2 An act relating to public records and
3 meetings; creating s. 288.9625, F.S.; providing
4 an exemption from the public-records law for
5 information held by the State University
6 Research Commercialization Funding Corporation
7 which relates to methods of production, trade
8 secrets, other proprietary information, and
9 projects submitted for funding and receiving
10 funding under the State University Research
11 Commercialization Program; providing for
12 information concerning investors or potential
13 investors in projects and information received
14 from a person or other state or nation which is
15 confidential to remain exempt from disclosure;
16 providing an exemption from the public-meetings
17 law for meetings and portions of meetings of
18 the board of directors of the State University
19 Research Commercialization Funding Corporation
20 at which confidential information is discussed;
21 providing for the disclosure of information at
22 such time as the information is no longer
23 confidential; providing for future legislative
24 review and repeal of the exemptions under the
25 Open Government Sunset Review Act; providing a
26 statement of public necessity; providing a
27 contingent effective date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 288.9625, Florida Statutes, is
2 created to read:

3 288.9625 Exemptions from public-records and
4 public-meetings requirements; State University Research
5 Commercialization Funding Corporation.--

6 (1) The following information held by the State
7 University Research Commercialization Funding Corporation
8 established in s. 288.9622 is confidential and exempt from s.
9 24, Art. I of the State Constitution and s. 119.07(1):

10 (a) Materials that relate to methods of manufacture or
11 production, potential trade secrets, patentable material,
12 actual trade secrets as defined in s. 688.002, or proprietary
13 information received, generated, ascertained, or discovered by
14 or through state universities relating to projects submitted
15 for funding under the State University Research
16 Commercialization Program.

17 (b) Agreements and proposals to receive funding,
18 including grant applications; however, those portions of such
19 agreements and proposals, including grant applications, which
20 do not contain information made exempt by paragraph (a) are
21 not confidential and exempt upon issuance of the annual report
22 that is made pursuant to s. 288.9622(8).

23 (c) Materials that relate to the identity of other
24 investors or potential investors in projects reviewed by the
25 corporation.

26 (d) Any information received from a person or another
27 state or nation or the Federal Government which is otherwise
28 confidential or exempt pursuant to that state's or nation's
29 laws or pursuant to federal law.

30 (2) That portion of a meeting of the board of
31 directors of the State University Research Commercialization

1 Funding Corporation at which information is presented or
2 discussed which is confidential and exempt under subsection
3 (1) is closed to the public and exempt from s. 24(b), Art. I
4 of the State Constitution and s. 286.011.

5 (3) Any records generated during those portions of the
6 board meetings which are closed to the public under subsection
7 (2), such as minutes, tape recordings, videotapes,
8 transcriptions, or notes, are confidential and exempt from s.
9 24, Art. I of the State Constitution and s. 119.07(1).

10 (4) Public employees shall be permitted to inspect and
11 copy records or information that is made exempt and
12 confidential under this section exclusively for the
13 performance of their public duties. Public employees receiving
14 this exempt and confidential information must maintain the
15 confidentiality of the information. Any such public employee
16 receiving confidential information who violates this
17 subsection commits a misdemeanor of the first degree,
18 punishable as provided by s. 775.082 or s. 775.083.

19 (5) At the time that any record or information made
20 confidential and exempt by this section, or portion thereof,
21 is legally available or subject to public disclosure for any
22 other reason, that record or information, or portion thereof,
23 shall no longer be confidential and exempt and shall be made
24 available for inspection and copying.

25 (6) This section is subject to the Open Government
26 Sunset Review Act in accordance with s. 119.15 and shall stand
27 repealed on October 2, 2012, unless reviewed and saved from
28 repeal through reenactment by the Legislature.

29 Section 2. (1) The Legislature finds that it is a
30 public necessity that certain information held by the State
31 University Research Commercialization Funding Corporation or

1 the State Board of Administration which contains methods of
2 manufacture or production, potential trade secrets, patentable
3 material, actual trade secrets, or proprietary information
4 received, generated, ascertained, or discovered by or through
5 state universities be made confidential and exempt from public
6 disclosure. The Legislature finds that the economic
7 development of the state is greatly enhanced by the
8 diversification of the industries that are located in the
9 state. In an effort that will greatly benefit the state
10 through economic stimulation, the diversification of
11 industries in the state, and job creation, the Legislature has
12 created the State University Research Commercialization
13 Program to promote the commercialization of university
14 research products and enhance the state's economy and public
15 universities.

16 (2) The Legislature also finds that it is a public
17 necessity to make exempt and confidential agreements and
18 proposals to receive funding, including grant applications,
19 until after the conclusion of the project and the issuance of
20 a report. If this information were not protected during the
21 application process and during the time work on the project is
22 ongoing, the grantee would be at a competitive disadvantage in
23 competing for those funds.

24 (3) The Legislature also finds that it is a public
25 necessity to protect the identity of investors and potential
26 investors because some investors wish to remain anonymous and
27 if their identity is not protected they would not make
28 investments. Such investments provide additional funding for
29 research and may provide additional reinvestment funds to the
30 state.

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1 (4) The Legislature also finds that it is a public
2 necessity to make confidential and exempt from public
3 disclosure any information received from a person, another
4 state, the Federal Government, or another nation which is
5 confidential or exempt from disclosure pursuant to the laws of
6 that state, nation, or the Federal Government. Failure to
7 protect such information would inhibit the work of the State
8 University Research Commercialization Program because other
9 persons, states, the Federal Government, or nations could be
10 unwilling to share information and research if it could be
11 released. Without protecting such information, state
12 universities that apply for funding would be on an unequal
13 footing in the marketing and sale of products resulting from
14 university research as compared with research competitors that
15 are not required to disclose confidential and exempt
16 information, and this would operate to the economic detriment
17 of the state.

18 (5) Similarly, the Legislature finds that the ability
19 of state universities to conduct meaningful work under the
20 State University Research Commercialization Program would be
21 impaired significantly if meetings are not closed during
22 discussion of records and information made confidential and
23 exempt from public disclosure by this act. Failure to protect
24 that portion of meetings during which such protected records
25 and information are discussed would defeat the exemption
26 created by this act. In addition, the Legislature finds that
27 records generated during those portions of meetings which are
28 closed, and the minutes, tape recordings, videotapes,
29 transcriptions, or notes, must be protected for the same
30 reasons that those portions of the meetings are closed.
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1 Section 3. This act shall take effect on the same date
2 that Senate Bill 1074, or similar legislation relating to the
3 State University Research Commercialization Program takes
4 effect, if such legislation is enacted in the same legislative
5 session, or an extension thereof, and becomes law.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 SB 1076

10 The committee substitute creates a public records exemption
11 for specified information held by the State University
12 Research Commercialization Funding Corporation, created in
13 CS/SB 1074. This exemption includes information contained in
14 university grant proposals relating to manufacture, trade
15 secrets, patentable material, and proprietary information. In
16 addition, information on investors and potential investors is
17 exempt. The bill also exempts from being open to the public
18 those portions of meetings of the board of directors at which
19 confidential information is presented or discussed. The bill
20 allows confidential information to be released to public
21 employees exclusively for the performance of their duties and
22 provides criminal penalties for a person who fails to maintain
23 the confidentiality of the information. These exemptions are
24 repealed on October 2, 2012, unless reenacted after review by
25 the Legislature under the Open Government Sunset Review Act
26 (s. 119.15, F.S.).