

1 ~~1.(a)~~ The Office of Tourism, Trade, and Economic
2 Development;
3 ~~2.(b)~~ Any industrial development authority created in
4 accordance with part III of chapter 159 or by special law;
5 ~~3.(c)~~ Space Florida created in part II of chapter 331;
6 ~~4.(d)~~ The public economic development agency of a
7 county or municipality or, if the county or municipality does
8 not have a public economic development agency, the officers or
9 employees assigned the duty of promoting the general business
10 interests or industrial interests of that county or
11 municipality or responsibilities related thereto;
12 ~~5.(e)~~ Any research and development authority created
13 in accordance with part V of chapter 159; or
14 ~~6.(f)~~ 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 (b) "Proprietary confidential business information"
20 means information that is owned or controlled by the
21 corporation, partnership, or person requesting confidentiality
22 under this section; that is intended to be and is treated by
23 the corporation, partnership, or person as private in that the
24 disclosure of the information would cause harm to the business
25 operations of the corporation, partnership, or person; that
26 has not been disclosed unless disclosed pursuant to a
27 statutory provision, an order of a court or administrative
28 body, or a private agreement providing that the information
29 may be released to the public; and that is information
30 concerning:
31 1. Business plans.

1 2. Internal auditing controls and reports of internal
2 auditors.

3 3. Reports of external auditors for privately held
4 companies.

5 (c) "Trade secret" has the same meaning as in s.
6 688.002.

7 (2) PLANS, INTENTIONS, AND INTERESTS.--

8 (a) Upon written request from a private corporation,
9 partnership, or person, information held by an economic
10 development agency concerning plans, intentions, or interests
11 of such private corporation, partnership, or person to locate,
12 relocate, or expand any of its business activities in this
13 state is confidential and exempt from s. 119.07(1) and s.
14 24(a), Art. I of the State Constitution for 12 months after
15 the date an economic development agency receives a request for
16 confidentiality or until the information is otherwise
17 disclosed, whichever occurs first.

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

30 (c) A public officer or employee may not enter into a
31 binding agreement with any corporation, partnership, or person

1 who has requested confidentiality of information under this
2 subsection until 90 days after the information is made public
3 unless:

4 1. The public officer or employee is acting in an
5 official capacity;

6 2. The agreement does not accrue to the personal
7 benefit of such public officer or employee; and

8 3. In the professional judgment of the officer or
9 employee, the agreement is necessary to effectuate an economic
10 development project.

11 ~~(3)(4) TRADE SECRETS.--Trade secrets held by, as~~
12 ~~defined by s. 812.081, contained in the records of an economic~~
13 ~~development agency relating to the plans, intentions, or~~
14 ~~interests of a corporation, partnership, or person who has~~
15 ~~requested confidentiality pursuant to this section are~~
16 ~~confidential and exempt from s. 119.07(1) and s. 24(a), Art. I~~
17 ~~of the State Constitution for 10 years after the date an~~
18 ~~economic development agency receives a request for~~
19 ~~confidentiality or until otherwise disclosed, whichever occurs~~
20 ~~first.~~

21 (4) PROPRIETARY CONFIDENTIAL BUSINESS
22 INFORMATION.--Proprietary confidential business information
23 held by an economic development agency is confidential and
24 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
25 Constitution until such information is otherwise publicly
26 available or is no longer treated by the proprietor as
27 proprietary confidential business information.

28 (5) IDENTIFICATION, ACCOUNT, AND REGISTRATION
29 NUMBERS.--A federal employer identification number,
30 unemployment compensation account number, or Florida sales tax
31 registration number held by an economic development agency is

1 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
2 of the State Constitution.

3 (6) ECONOMIC INCENTIVE PROGRAMS.--

4 (a) The following information held by an economic
5 development agency pursuant to the administration of an
6 economic incentive program for qualified businesses is
7 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
8 of the State Constitution for a period not to exceed the
9 duration of the incentive agreement, including an agreement
10 authorizing a tax refund or credit, or upon termination of the
11 incentive agreement:

12 1. The percentage of the business's sales occurring
13 outside this state and, for businesses applying under s.
14 288.1045, the percentage of the business's gross receipts
15 derived from Department of Defense contracts during the 5
16 years immediately preceding the date the business's
17 application is submitted.

18 2. The anticipated wages for the project jobs that the
19 business plans to create, as reported on the application for
20 certification.

21 3. The average wage actually paid by the business for
22 those jobs created by the project or an employee's personal
23 identifying information which is held as evidence of the
24 achievement or nonachievement of the wage requirements of the
25 tax refund, tax credit, or incentive agreement programs or of
26 the job-creation requirements of such programs.

27 4. The amount of:

28 a. Taxes on sales, use, and other transactions which
29 are paid pursuant to chapter 212;

30 b. Corporate income taxes paid pursuant to chapter
31 220;

1 c. Intangible personal property taxes paid pursuant to
2 chapter 199;
3 d. Emergency excise taxes paid pursuant to chapter
4 221;
5 e. Insurance premium taxes paid pursuant to chapter
6 624;
7 f. Excise taxes paid on documents pursuant to chapter
8 201;
9 g. Ad valorem taxes paid, as defined in s. 220.03(1);
10 or
11 h. State communications services taxes paid pursuant
12 to chapter 202.
13 (b)1. An economic development agency may release:
14 a. Names of qualified businesses.
15 b. The total number of jobs each business expects to
16 create.
17 c. The total number of jobs created by each business.
18 d. The amount of tax refunds, tax credits, or
19 incentives awarded to and claimed by each business.
20 2. For a business applying for certification under s.
21 288.1045 which is based on obtaining a new Department of
22 Defense contract, the total number of jobs expected and the
23 amount of tax refunds claimed may not be released until the
24 new Department of Defense contract is awarded.
25 (c) An economic development agency may publish
26 statistics in the aggregate and classified so as to prevent
27 the identification of a single qualified applicant.
28 ~~(5) A public officer or employee may not enter into a~~
29 ~~binding agreement with any corporation, partnership, or person~~
30 ~~who has requested confidentiality of information pursuant to~~
31

1 ~~this section until 90 days after the information is made~~
2 ~~public unless:~~

3 ~~(a) The public officer or employee is acting in an~~
4 ~~official capacity;~~

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

7 ~~(c) In the professional judgment of the officer or~~
8 ~~employee, the agreement is necessary to effectuate an economic~~
9 ~~development project.~~

10 ~~(7)(6)~~ PENALTIES.--Any person who is an employee of an
11 economic development agency who violates the provisions of
12 this section commits a misdemeanor of the second degree,
13 punishable as provided in s. 775.082 or s. 775.083.

14 (8) OPEN GOVERNMENT SUNSET REVIEW ACT.--This section
15 is subject to the Open Government Sunset Review Act in
16 accordance with s. 119.15 and shall stand repealed on October
17 2, 2012, unless reviewed and saved from repeal through
18 reenactment by the Legislature.

19 Section 2. The Legislature finds that it is a public
20 necessity to provide confidentiality for certain information
21 concerning businesses which is contained in records of an
22 economic development agency or of a business participating in
23 a state incentive program. The disclosure of information such
24 as trade secrets, proprietary confidential business
25 information, or other business information could injure a
26 business in the marketplace by providing its competitors with
27 detailed insights into the strategic plans of the business or
28 with confidential personnel information, thereby diminishing
29 the advantage that the business maintains over those that do
30 not possess such information. Without these exemptions,
31 private-sector businesses, whose records generally are not

1 required to be open to the public, might refrain from
2 participating in economic-development programs or tax-credit
3 or tax-refund programs and thus would not be able to use the
4 incentives available under the programs. If a business were
5 unable to use the incentives, the business might choose to
6 locate its business and other investment activities outside
7 the state, which would deprive the state and the public of the
8 potential economic benefits associated with such business
9 activities in this state. The harm to businesses in the
10 marketplace and to the effective administration of
11 economic-development and incentive programs caused by the
12 public disclosure of such information far outweighs the public
13 benefits derived from the release of the information.

14 Section 3. Section 288.1067, Florida Statutes, is
15 repealed.

16 Section 4. This act shall take effect July 1, 2007.

17
18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19 COMMITTEE SUBSTITUTE FOR
20 Senate Bill 1182

21 Clarifies that proprietary confidential business information
22 that is no longer treated by the proprietor as such or which
information is otherwise publicly available is not protected.

23 Provides expiration of exemption for certain information upon
24 termination of an incentive agreement.

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