

By Senator Latvala

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1 A bill to be entitled
2 An act relating to public records; creating s. 332.16,
3 F.S.; providing definitions; providing an exemption
4 from public-records requirements for proprietary
5 confidential business information submitted to or held
6 by a public airport and for any proposal or
7 counterproposal exchanged between the governing body
8 of a public airport and a nongovernmental entity
9 relating to the sale, use, development, or lease of
10 airport land or airport facilities; providing for
11 exceptions to the exemptions; providing for future
12 legislative review and repeal of the exemptions under
13 the Open Government Sunset Review Act; providing a
14 finding of public necessity; providing an effective
15 date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Section 332.16, Florida Statutes, is created to
20 read:

21 332.16 Exemption from public disclosure.-

22 (1) DEFINITIONS.-As used in this section, the term:

23 (a) "Airport facilities" means airports, buildings,
24 structures, terminal buildings, parking garages and lots,
25 hangars, land, warehouses, shops, hotels, other aviation
26 facilities of any kind or nature, or any other facility of any
27 kind or nature related to or connected with a public airport and
28 other aviation facility that a public airport is authorized by
29 law to construct, acquire, own, lease, or operate, together with

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30 all fixtures, equipment, and property, real or personal,
31 tangible or intangible, necessary, appurtenant, or incidental
32 thereto.

33 (b) "Governing body" means the board or body in which the
34 general legislative powers of a public airport is vested.

35 (c) "Proprietor" means a self-employed individual,
36 proprietorship, corporation, partnership, limited partnership,
37 firm, enterprise, franchise, association, trust, or business
38 entity, whether fictitiously named or not, authorized to do or
39 doing business in this state, including its respective
40 authorized officer, employee, agent, or successor in interest,
41 which controls or owns the proprietary confidential business
42 information provided to a public airport.

43 (d) "Proprietary confidential business information" means
44 information that has been designated as confidential by the
45 proprietor and includes:

46 1. Business plans;

47 2. Internal auditing controls and reports of internal
48 auditors;

49 3. Reports of external auditors for privately held
50 companies;

51 4. Trade secrets as defined in s. 688.002;

52 5. Client and customer lists;

53 6. Potentially patentable material;

54 7. Business transactions; or

55 8. Financial information of the proprietor or projections
56 of financial results for the proprietor or the airport
57 facilities project for which the information is provided.

58 (e) "Public airport" has the same meaning as provided in s.

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59 330.27 and includes areas defined in s. 332.01(3).

60 (2) PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.—

61 Proprietary confidential business information submitted to or
62 held by a public airport is confidential and exempt from s.
63 119.07(1) and s. 24(a), Art. I of the State Constitution, until
64 such information is no longer considered to be proprietary
65 confidential business information by the proprietor.

66 (3) SALE, USE, DEVELOPMENT, OR LEASE OF AIRPORT LAND OR
67 AIRPORT FACILITIES.—

68 (a) A proposal or counterproposal exchanged between a
69 public airport and a nongovernmental entity relating to the
70 sale, use, development, or lease of airport land or airport
71 facilities is confidential and exempt from s. 119.07(1) and s.
72 24(a), Art. I of the State Constitution.

73 (b) Ten days after any such proposal or counterproposal is
74 approved by the governing body of a public airport, the proposal
75 or counterproposal shall cease to be exempt. If no proposal or
76 counterproposal is submitted to the governing body of the public
77 airport for approval, such proposal or counterproposal shall
78 cease to be exempt 90 days after the cessation of negotiations
79 between the public airport and the nongovernmental entity.

80 (4) LEGISLATIVE REVIEW.—This section is subject to the Open
81 Government Sunset Review Act in accordance with s. 119.15, and
82 shall stand repealed on October 2, 2016, unless reviewed and
83 saved from repeal through reenactment by the Legislature.

84 Section 2. The Legislature finds that it is a public
85 necessity that proprietary confidential business information,
86 including business plans, internal auditing controls and reports
87 of internal auditors, reports of external auditors for privately

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88 held companies, trade secrets, client and customer lists,
89 potentially patentable material, business transactions, and
90 financial information of the proprietor or projections of
91 financial results for the proprietor or the airport facilities
92 project for which the information is provided, be made
93 confidential and exempt from s. 119.07(1), Florida Statutes, and
94 s. 24(a), Article I of the State Constitution. Proprietary
95 confidential business information derives independent economic
96 value, actual or potential, from not being generally known to,
97 and not being readily ascertainable by, other persons who could
98 obtain economic value from its disclosure or use. An airport, in
99 performing its lawful duties and responsibilities, may need to
100 obtain from a proprietor confidential business information.
101 Without an exemption from public-records requirements,
102 proprietary confidential business information that is received
103 or held by an airport becomes a public record and must be
104 divulged upon request. Divulging the proprietary confidential
105 business information would destroy the value of that property to
106 the proprietor, causing a financial loss not only to the
107 proprietor, but also to the airport and to the state and local
108 governments due to a loss of tax revenue and employment
109 opportunities for residents. Release of that information would
110 give business competitors an unfair advantage and would injure
111 the affected entity in the marketplace. Thus, the Legislature
112 finds that it is a public necessity that proprietary
113 confidential business information that is received or held by a
114 public airport be made confidential and exempt from public-
115 records requirements.

116 Section 3. This act shall take effect July 1, 2011.