

By Senator Rouson

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1 A bill to be entitled
2 An act relating to disclosure of contract information
3 by individuals or entities receiving public funding;
4 amending s. 125.0104, F.S.; defining the term
5 "corporation"; requiring certain information to be
6 included in contracts of specified individuals and
7 corporations; requiring marketing partners of an
8 individual or corporation to provide certain financial
9 data to such individual or corporation; providing
10 requirements for the website of specified individuals
11 and corporations; amending s. 288.075, F.S.; providing
12 that the definition of the term "proprietary business
13 information" does not include certain information
14 relating to the amount paid under specified contracts
15 between a private corporation, partnership, or person
16 and an economic development agency; prohibiting an
17 economic development agency from maintaining or
18 agreeing to maintain as confidential the amount paid
19 to certain parties pursuant to an economic incentive
20 agreement; revising the information an economic
21 development agency is required to disclose after a
22 specified period; amending ss. 688.002 and 812.081,
23 F.S.; providing that the definition of the term "trade
24 secret" does not include certain information relating
25 to the amount paid under a contract or agreement
26 between a private corporation, partnership, or person
27 and an economic development agency, the state, or
28 other governmental entity; providing an effective
29 date.

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

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33 Section 1. Paragraph (b) of subsection (2) of section
34 125.0104, Florida Statutes is amended, present subsections (10)
35 and (11) of that section, are redesignated as subsections (11)
36 and (12), respectively, and a new subsection (10) is added to
37 that section, to read:

38 125.0104 Tourist development tax; procedure for levying;
39 authorized uses; referendum; enforcement.—

40 (2) APPLICATION; DEFINITIONS.—

41 (b) *Definitions*.—For purposes of this section:

42 1. "Corporation" means a private firm, association, joint
43 venture, partnership, estate, trust, syndicate, fiduciary,
44 corporation, or other private group, or any combination thereof,
45 which receives tax revenues pursuant to this section.

46 2.1. "Promotion" means marketing or advertising designed to
47 increase tourist-related business activities.

48 4.2. "Tourist" means a person who participates in trade or
49 recreation activities outside the county of his or her permanent
50 residence or who rents or leases transient accommodations as
51 described in paragraph (3) (a).

52 3. "Retained spring training franchise" means a spring
53 training franchise that had a location in this state on or
54 before December 31, 1998, and that has continuously remained at
55 that location for at least the 10 years preceding that date.

56 (10) CONTRACT, REPORTING, AND WEBSITE REQUIREMENTS.—

57 (a) A contract entered into between an individual or a
58 corporation and any other entity, including a local

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59 governmental, private, or nonprofit entity, which receives
60 public funds from the state or from a tax imposed pursuant to
61 this section, s. 125.0108, or s. 212.0305 must include:

62 1. The purpose of the contract.

63 2. Specific performance standards and the responsibilities
64 of each entity.

65 3. A detailed project or contract budget, if applicable.

66 4. The value of any services provided.

67 5. The salaries of all employees and board members of the
68 entity and their projected travel and entertainment expenses.

69 (b)1. If a marketing partner, corporation, or an individual
70 receives public funds from the state or from a tax imposed
71 pursuant to this section, s. 125.0108, or s. 212.0305, the
72 marketing partner shall annually report all public and private
73 financial data to the individual or corporation.

74 2. The financial data must include:

75 a. The total amount of revenue received from public and
76 private sources.

77 b. The operating budget.

78 c. Employee and board member salary and benefit details.

79 d. An itemized account of all funds spent by a third party
80 on behalf of the individual or corporation or a board member or
81 an employee of the individual or corporation.

82 e. Itemized travel and entertainment expenditures.

83 (c) The following information must be posted on the
84 individual or corporation's website:

85 1. A plain language version of each proposed and executed
86 contract exceeding \$35,000 with a private entity, municipality,
87 city, town, or vendor of services, supplies, or programs,

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88 including marketing, or for the purchase, lease, or use of
89 lands, facilities, or properties.

90 2. Any agreement entered into between an individual or
91 corporation and any other entity, including a local
92 governmental, private, or nonprofit entity that receives public
93 funds or funds from a tax imposed pursuant to s. 125.0104, s.
94 125.0108, or s. 212.0305.

95 3. Video recordings of each board meeting.

96 4. A detailed report of expenditures following each
97 marketing event paid for with an individual's or corporation's
98 funds. Such report must be posted within 10 business days after
99 the event.

100 5. An annual itemized accounting of the total amount of
101 funds spent by any third party on behalf of the individual or
102 corporation or any board member or employee of the individual or
103 corporation.

104 6. An annual itemized accounting of the total amount of
105 travel and entertainment expenditures of the individual or
106 corporation.

107 (d) An individual or corporation's website must:

108 1. Allow users to navigate to related sites to view
109 supporting details.

110 2. Enable a taxpayer to e-mail questions to such individual
111 or corporation and make such questions and the individual's or
112 corporation's responses publicly viewable.

113 Section 2. Paragraph (b) of subsection (1), paragraph (a)
114 of subsection (2), paragraph (b) of subsection (6), and
115 subsection (7) of section 288.075, Florida Statutes, are amended
116 to read:

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117 288.075 Confidentiality of records.—

118 (1) DEFINITIONS.—As used in this section, the term:

119 (b) "Proprietary confidential business information" means
120 information that is owned or controlled by the corporation,
121 partnership, or person requesting confidentiality under this
122 section; that is intended to be and is treated by the
123 corporation, partnership, or person as private in that the
124 disclosure of the information would cause harm to the business
125 operations of the corporation, partnership, or person; that has
126 not been disclosed unless disclosed pursuant to a statutory
127 provision, an order of a court or administrative body, or a
128 private agreement providing that the information may be released
129 to the public; and that is information concerning:

130 1. Business plans.

131 2. Internal auditing controls and reports of internal
132 auditors.

133 3. Reports of external auditors for privately held
134 companies.

135
136 The term does not include information relating to the amount
137 paid to a private corporation, partnership, or person by an
138 economic development agency pursuant to an economic incentive
139 agreement.

140 (2) PLANS, INTENTIONS, AND INTERESTS.—

141 (a)1. If a private corporation, partnership, or person
142 requests in writing before an economic incentive agreement is
143 signed that an economic development agency maintain the
144 confidentiality of information concerning plans, intentions, or
145 interests of such private corporation, partnership, or person to

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146 locate, relocate, or expand any of its business activities in
147 this state, the information is confidential and exempt from s.
148 119.07(1) and s. 24(a), Art. I of the State Constitution for 12
149 months after the date an economic development agency receives a
150 request for confidentiality or until the information is
151 otherwise disclosed, whichever occurs first. However, an
152 economic development agency may not maintain as confidential or
153 agree to maintain as confidential the amount paid to a private
154 corporation, partnership, or person by the economic development
155 agency pursuant to an economic incentive agreement.

156 2. An economic development agency may extend the period of
157 confidentiality specified in subparagraph 1. for up to an
158 additional 12 months upon written request from the private
159 corporation, partnership, or person who originally requested
160 confidentiality under this section and upon a finding by the
161 economic development agency that such private corporation,
162 partnership, or person is still actively considering locating,
163 relocating, or expanding its business activities in this state.
164 Such a request for an extension in the period of confidentiality
165 must be received prior to the expiration of any confidentiality
166 originally provided under subparagraph 1.

167
168 If a final project order for a signed economic development
169 agreement is issued, then the information will remain
170 confidential and exempt for 180 days after the final project
171 order is issued, until a date specified in the final project
172 order, or until the information is otherwise disclosed,
173 whichever occurs first. However, such period of confidentiality
174 may not extend beyond the period of confidentiality established

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175 in subparagraph 1. or subparagraph 2.

176 (6) ECONOMIC INCENTIVE PROGRAMS.—

177 (b)1. The following information held by an economic
178 development agency relating to a specific business participating
179 in an economic incentive program is no longer confidential or
180 exempt 180 days after a final project order for an economic
181 incentive agreement is issued, until a date specified in the
182 final project order, or if the information is otherwise
183 disclosed, whichever occurs first:

184 a. The name of the qualified business.

185 b. The total number of jobs the business committed to
186 create or retain.

187 c. The total number of jobs created or retained by the
188 business.

189 d. Notwithstanding s. 213.053(2), the amount of tax
190 refunds, tax credits, or incentives awarded to, claimed by, or,
191 if applicable, refunded to the state by the business.

192 e. The anticipated total annual wages of employees the
193 business committed to hire or retain.

194 f. The amount paid to a private corporation, partnership,
195 or person by the economic development agency pursuant to an
196 economic incentive agreement.

197 2. For a business applying for certification under s.
198 288.1045 which is based on obtaining a new Department of Defense
199 contract, the total number of jobs expected and the amount of
200 tax refunds claimed may not be released until the new Department
201 of Defense contract is awarded.

202 (7) PENALTIES.—Any person who is an employee of an economic
203 development agency who violates ~~the provisions of~~ this section

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204 commits a misdemeanor of the second degree, punishable as
205 provided in s. 775.082 or s. 775.083.

206 Section 3. Subsection (4) of section 688.002, Florida
207 Statutes, is amended to read:

208 688.002 Definitions.—As used in ss. 688.001-688.009, unless
209 the context requires otherwise:

210 (4) "Trade secret" means information, including a formula,
211 pattern, compilation, program, device, method, technique, or
212 process that:

213 (a) Derives independent economic value, actual or
214 potential, from not being generally known to, and not being
215 readily ascertainable by proper means by, other persons who can
216 obtain economic value from its disclosure or use; and

217 (b) Is the subject of efforts that are reasonable under the
218 circumstances to maintain its secrecy.

219
220 The term does not include information relating to the amount
221 paid to a private corporation, partnership, or person by an
222 economic development agency as defined in s. 288.075, the state,
223 or other governmental entity pursuant to a contract or
224 agreement.

225 Section 4. Paragraph (c) of subsection (1) of section
226 812.081, Florida Statutes, is amended to read:

227 812.081 Trade secrets; theft, embezzlement; unlawful
228 copying; definitions; penalty.—

229 (1) As used in this section, the term:

230 (c) "Trade secret" means the whole or any portion or phase
231 of any formula, pattern, device, combination of devices, or
232 compilation of information which is for use, or is used, in the

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233 operation of a business and which provides the business an
234 advantage, or an opportunity to obtain an advantage, over those
235 who do not know or use it. The term includes any scientific,
236 technical, or commercial information, including financial
237 information, and includes any design, process, procedure, list
238 of suppliers, list of customers, business code, or improvement
239 thereof. Irrespective of novelty, invention, patentability, the
240 state of the prior art, and the level of skill in the business,
241 art, or field to which the subject matter pertains, a trade
242 secret is considered to be:

- 243 1. Secret;
- 244 2. Of value;
- 245 3. For use or in use by the business; and
- 246 4. Of advantage to the business, or providing an
247 opportunity to obtain an advantage, over those who do not know
248 or use it

249
250 when the owner thereof takes measures to prevent it from
251 becoming available to persons other than those selected by the
252 owner to have access thereto for limited purposes. The term does
253 not include information relating to the amount paid to a private
254 corporation, partnership, or person by an agency as defined in
255 s. 119.011.

256 Section 5. This act shall take effect July 1, 2017.