

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Government Accountability
2 Committee

3 Representative Massullo offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 25-159 and insert:

7 except that the term does not include the following information
8 related to any contract or agreement, or an addendum thereto,
9 with an agency:

10 1. The parties to the contract or agreement, or an
11 addendum thereto.

12 2. The amount of money paid, any payment structure or
13 plan, expenditures, incentives, bonuses, fees, or penalties.

14 3. The nature or type of commodities or services
15 purchased.

16 4. Applicable contract unit prices and deliverables.

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17 (2) PUBLIC RECORD EXEMPTION.—A trade secret held by an
18 agency is confidential and exempt from s. 119.07(1) and s.
19 24(a), Art. I of the State Constitution.

20 (3) SUBMISSION OF TRADE SECRET TO AN AGENCY.—

21 (a) If a person who submits records to an agency claims
22 that such submission contains a trade secret, such person shall
23 submit to the agency a notice of trade secret when such records
24 are submitted to the agency. Failure to submit such notice
25 constitutes a waiver of any claim by such person that the record
26 contains a trade secret. The notice must provide the name,
27 telephone number, and mailing address of the person claiming the
28 record contains a trade secret. Such person is responsible for
29 updating his or her contact information with the agency.

30 (b) Each page of a record or specific portion of a record
31 that contains a trade secret must be clearly marked with the
32 words "trade secret."

33 (c) In submitting a notice of trade secret to the agency,
34 the submitting party shall verify to the agency through a
35 written declaration in the manner provided in s. 92.525 the
36 following:

37
38 [...I have/my company has...] read the definition of a
39 trade secret in s. 688.01, Florida Statutes, and [...I
40 believe/my company believes...] the information contained in

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41 this record is a trade secret as defined in s. 688.01, Florida
42 Statutes.

43 [...I have/my company has...] taken measures to prevent the
44 disclosure of the record or specific portion of a record claimed
45 to be a trade secret to anyone other than those who have been
46 selected to have access for limited purposes, and [...I
47 intend/my company intends...] to continue to take such measures.

48 The record or specific portion of a record claimed to be a
49 trade secret is not, and has not been, reasonably obtainable
50 without [...my/our...] consent by other persons by use of
51 legitimate means.

52 The record or specific portion of a record claimed to be a
53 trade secret is not publicly available elsewhere.

54
55 (4) RESPONSE TO A REQUEST FOR PUBLIC RECORDS.—

56 (a) If an agency receives a request for a public record
57 and the requested record or a specific portion of the record is
58 marked and verified as containing a trade secret, the agency
59 shall, as soon as practical, notify the person who requested the
60 record or specific portion of the record that is marked and
61 verified as containing a trade secret. The notice must inform
62 the person who requested such record of the process outlined in
63 paragraph (b) and direct such person to respond to the notice if
64 he or she desires access to the record marked and verified as
65 containing a trade secret.

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66 (b) If the person who requested the record indicates he or
67 she desires access to the requested record or a specific portion
68 of the record that has been marked and verified as containing a
69 trade secret, the agency shall promptly notify the person who
70 verified the record, or specific portion of the record, as
71 containing a trade secret of the request. The notice shall be
72 sent to the address provided to the agency and must inform such
73 person that, in order to avoid disclosure of the trade secret,
74 the person must file an action in circuit court within 30 days
75 after the date of the notice seeking a declaratory judgment that
76 the record in question contains a trade secret and an order
77 barring public disclosure of the record. If an action is filed,
78 the agency must notify the person who requested the record.

79 (c) The petition or other initial pleading shall be served
80 on the agency.

81 (d)1. When an action is filed pursuant to paragraph (b),
82 the court shall set an immediate hearing, giving the case
83 priority over other pending cases.

84 2. If the court determines that the record in question
85 does not contain a trade secret, the agency must make the record
86 available to the requester within 2 business days after the date
87 of the court order, unless otherwise provided by the court
88 issuing such order, or unless an appellate court issues a stay
89 order within the 2-day period.

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90 3. Upon service of a petition or other initial pleading in
91 an action brought under paragraph (b), the agency may not
92 transfer custody, alter, destroy, or otherwise dispose of the
93 record requested until the court makes a determination regarding
94 whether the record contains a trade secret.

95 (e) The agency may not release the record pending the
96 outcome of the legal action. Failure to file an action within 30
97 days after the date of the notice constitutes a waiver of any
98 claim of confidentiality, and the agency shall release the
99 record as requested.

100 (f) Any action under this subsection must be brought in
101 the county in which the agency in possession of the record is
102 headquartered.

103 (g) This subsection does not apply if a declaratory
104 judgment that determines the requested information constitutes a
105 trade secret pursuant to this section has been issued within
106 three years of the date the public record request is received by
107 the agency.

108 (h) If the person who requested the record or specific
109 portion of the record marked and verified as containing a trade
110 secret notifies the agency that he or she no longer desires
111 access to such record, the agency shall notify the person who
112 verified the record or specific portion of the record as
113 containing a trade secret that the request has been withdrawn
114 and that obtaining a declaratory judgment is no longer

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115 necessary. If the request is withdrawn before a judicial
116 determination is made, the agency must continue to maintain the
117 confidentiality of such record.

118 (5) AGENCY ACCESS.—An agency may disclose a trade secret,
119 together with the notice of trade secret, to an officer or
120 employee of another agency or governmental entity whose use of
121 the trade secret is within the scope of his or her lawful duties
122 and responsibilities.

123 (6) LIABILITY.—An agency employee who, while acting in
124 good faith and in the performance of his or her duties, releases
125 a record containing a trade secret pursuant to this act is not
126 liable, civilly or criminally, for such release.

127 (7) APPLICATION.—This section does not apply to research
128 institutes created or established in law, divisions of sponsored
129 research at state universities, or technology transfer centers
130 at Florida College System institutions.

131 (8) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
132 to the Open Government Sunset Review Act in accordance with s.
133 119.15 and shall stand repealed on October 2, 2023, unless
134 reviewed and saved from repeal through reenactment by the
135 Legislature.

136 Section 2. Section 688.001, Florida Statutes, is amended
137 to read:

138 688.001 Short title.—Sections 688.001-688.01 Sections
139 ~~688.001-688.009~~ may be cited as the "Uniform Trade Secrets Act."

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140 Section 3. Section 688.006, Florida Statutes, is amended
141 to read:

142 688.006 Preservation of secrecy.—In an action under ss.
143 688.001-688.01 ~~ss. 688.001-688.009~~, a court shall preserve the
144 secrecy of an alleged trade secret by reasonable means, which
145 may include granting protective orders in connection with
146 discovery proceedings, holding in camera hearings, sealing the
147 records of the action, and ordering any person involved in the
148 litigation not to disclose an alleged trade secret without prior
149 court approval.

150 Section 4. The Legislature finds that it is a public
151 necessity that trade secrets held by an agency be made
152 confidential and exempt from s. 119.07(1), Florida Statutes, and
153 s. 24(a), Article I of the State Constitution. The Legislature
154 recognizes that an agency may create trade secret information in
155 the furtherance of the agency's duties and responsibilities and
156 that disclosure of such information would be detrimental to the
157 effective and efficient operation of the agency. If such trade
158 secret information were made available to the public, the agency
159 could suffer great economic harm. In addition, the Legislature

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162 **T I T L E A M E N D M E N T**

163 Between lines 9 and 10, insert:

164 providing for application of the exemption;