



128754

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/21/2021	.	
	.	
	.	
	.	

The Committee on Rules (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 119.0715, Florida Statutes, is created
to read:

119.0715 Trade secrets held by an agency.-

(1) "Trade secret" has the same meaning as in s. 688.002.

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



128754

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

13 (a) If a person who submits records to an agency claims
14 that such submission contains a trade secret, such person shall
15 submit to the agency a notice of trade secret at the time he or
16 she submits such records to the agency. Failure to do so
17 constitutes a waiver of any claim by such person that the record
18 contains a trade secret. The notice must provide the name,
19 telephone number, and mailing address of the person claiming the
20 record contains a trade secret, and a specific description of
21 the information contained in the record claimed to be a trade
22 secret. Such person is responsible for updating his or her
23 contact information with the agency.

24 (b) Duty to Mark.

25 1. Each page of a record or specific portion of a record
26 that contains a trade secret must be clearly marked with the
27 words "trade secret."

28 2. For voluminous records or records in electronic data
29 format which prohibit or make page by page marking unduly
30 burdensome, the initial page of such record must be clearly
31 marked with the words "trade secret."

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

35
36 [...I have/my company has...] read the definition of a
37 trade secret in s. 688.002, Florida Statutes, and [...I
38 believe/my company believes...] the information contained in
39 this record is a trade secret as defined in s. 688.002, Florida
40 Statutes.



128754

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

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

50 The record or specific portion of the record claimed to be
51 a trade secret is not publicly available elsewhere.

52
53 (4) AGENCY ACCESS.—An agency may disclose a trade secret,
54 together with the notice of trade secret, to an officer or
55 employee of another agency or governmental entity whose use of
56 the trade secret is within the scope of his or her lawful duties
57 and responsibilities.

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

62 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
63 to the Open Government Sunset Review Act in accordance with s.
64 119.15 and shall stand repealed on October 2, 2026, unless
65 reviewed and saved from repeal through reenactment by the
66 Legislature.

67 Section 2. The Legislature finds that it is a public
68 necessity that trade secrets held by an agency be made
69 confidential and exempt from s. 119.07(1), Florida Statutes, and



128754

70 s. 24(a), Article I of the State Constitution. The Legislature
71 recognizes that an agency may create trade secret information in
72 furtherance of the agency's duties and responsibilities and that
73 disclosure of such information would be detrimental to the
74 effective and efficient operation of the agency. If such trade
75 secret information were made available to the public, the agency
76 could suffer great economic harm. In addition, the Legislature
77 recognizes that in many instances, individuals and businesses
78 provide trade secret information for regulatory or other
79 purposes to an agency and that disclosure of such information to
80 competitors of those businesses would be detrimental to the
81 businesses. Without the public record exemption, those entities
82 would hesitate to cooperate with an agency, which would impair
83 the effective and efficient administration of governmental
84 functions. As such, the Legislature's intent is to protect trade
85 secret information of a confidential nature that includes a
86 formula, pattern, compilation, program, device, method,
87 technique, or process used that derives independent economic
88 value, actual or potential, from not being generally known to,
89 and not being readily ascertainable by proper means by, other
90 persons who can obtain economic value from its disclosure or
91 use. Therefore, the Legislature finds that the need to protect
92 trade secrets is sufficiently compelling to override this
93 state's public policy of open government and that the protection
94 of such information cannot be accomplished without this
95 exemption.

96 Section 3. This act shall take effect upon becoming a law.

97
98 ===== T I T L E A M E N D M E N T =====



128754

99 And the title is amended as follows:

100 Delete everything before the enacting clause
101 and insert:

102 A bill to be entitled

103 An act relating to public records; amending s.
104 119.011, F.S.; providing a definition for "trade
105 secret"; creating s. 119.0715, F.S.; providing an
106 exemption from public records requirements for a trade
107 secret held by an agency; providing notice
108 requirements; providing marking requirements;
109 providing an exception to the marking requirements;
110 providing an exception to the exemption; providing
111 that an agency employee is not liable for the release
112 of certain records; providing for future legislative
113 review and repeal of the exemption; providing a
114 statement of public necessity; providing an effective
115 date.