

1                   A bill to be entitled  
 2           An act relating to public records; creating s. 688.01,  
 3           F.S.; providing definitions; providing an exemption  
 4           from public records requirements for a trade secret  
 5           held by an agency; providing notice requirements;  
 6           providing an exception to the exemption; providing  
 7           that an agency employee is not liable for the release  
 8           of certain records; providing for future legislative  
 9           review and repeal of the exemption; amending ss.  
 10          688.001 and 688.006, F.S.; conforming cross-  
 11          references; providing a statement of public necessity;  
 12          providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

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 16          Section 1. Section 688.01, Florida Statutes, is created to  
 17          read:

18          688.01 Trade secret exemption from inspecting or copying  
 19          public records.-

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

21          (a) "Agency" has the same meaning as in s. 119.011.

22          (b) "Trade secret" has the same meaning as in s. 688.002,  
 23          except that the term does not include the following information  
 24          related to any contract or agreement, or an addendum thereto,  
 25          with an agency:

- 26        1. The parties to the contract or agreement, or an  
 27 addendum thereto.
- 28        2. The amount of money paid, any payment structure or  
 29 plan, expenditures, incentives, bonuses, fees, or penalties.
- 30        3. The nature or type of commodities or services  
 31 purchased.
- 32        4. Applicable contract unit prices and deliverables.
- 33        (2) PUBLIC RECORD EXEMPTION.—A trade secret held by an  
 34 agency is confidential and exempt from s. 119.07(1) and s.  
 35 24(a), Art. I of the State Constitution.
- 36        (3) SUBMISSION OF TRADE SECRET TO AN AGENCY.—
- 37        (a) If a person who submits records to an agency claims  
 38 that such submission contains a trade secret, such person shall  
 39 submit to the agency a notice of trade secret at the time he or  
 40 she submits such records to the agency. Failure to do so  
 41 constitutes a waiver of any claim by such person that the record  
 42 contains a trade secret. The notice must provide the name,  
 43 telephone number, and mailing address of the person claiming the  
 44 record contains a trade secret. Such person is responsible for  
 45 updating his or her contact information with the agency.
- 46        (b) Each page of a record or specific portion of a record  
 47 that contains a trade secret must be clearly marked with the  
 48 words "trade secret."
- 49        (c) When submitting a notice of trade secret to the  
 50 agency, the submitting party must verify to the agency through a

51 written declaration in the manner provided in s. 92.525 the  
52 following:

53  
54 [...I have/my company has...] read the definition of a  
55 trade secret in s. 688.01, Florida Statutes, and [...I  
56 believe/my company believes...] the information contained in  
57 this record is a trade secret as defined in s. 688.01, Florida  
58 Statutes.

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

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

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

70  
71 (4) AGENCY ACCESS.—An agency may disclose a trade secret,  
72 together with the notice of trade secret, to an officer or  
73 employee of another agency or governmental entity whose use of  
74 the trade secret is within the scope of his or her lawful duties  
75 and responsibilities.

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

80           (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
 81 to the Open Government Sunset Review Act in accordance with s.  
 82 119.15 and shall stand repealed on October 2, 2026, unless  
 83 reviewed and saved from repeal through reenactment by the  
 84 Legislature.

85           Section 2. Section 688.001, Florida Statutes, is amended  
 86 to read:

87           688.001 Short title.—Sections 688.001-688.01 ~~Sections~~  
 88 ~~688.001-688.009~~ may be cited as the "Uniform Trade Secrets Act."

89           Section 3. Section 688.006, Florida Statutes, is amended  
 90 to read:

91           688.006 Preservation of secrecy.—In an action under ss.  
 92 688.001-688.01 ~~ss. 688.001-688.009~~, a court shall preserve the  
 93 secrecy of an alleged trade secret by reasonable means, which  
 94 may include granting protective orders in connection with  
 95 discovery proceedings, holding in camera hearings, sealing the  
 96 records of the action, and ordering any person involved in the  
 97 litigation not to disclose an alleged trade secret without prior  
 98 court approval.

99           Section 4. The Legislature finds that it is a public  
 100 necessity that trade secrets held by an agency be made

101 confidential and exempt from s. 119.07(1), Florida Statutes, and  
102 s. 24(a), Article I of the State Constitution. The Legislature  
103 recognizes that an agency may create trade secret information in  
104 furtherance of the agency's duties and responsibilities and that  
105 disclosure of such information would be detrimental to the  
106 effective and efficient operation of the agency. If such trade  
107 secret information were made available to the public, the agency  
108 could suffer great economic harm. In addition, the Legislature  
109 recognizes that in many instances, individuals and businesses  
110 provide trade secret information for regulatory or other  
111 purposes to an agency and that disclosure of such information to  
112 competitors of those businesses would be detrimental to the  
113 businesses. Without the public record exemption, those entities  
114 would hesitate to cooperate with an agency, which would impair  
115 the effective and efficient administration of governmental  
116 functions. As such, the Legislature's intent is to protect trade  
117 secret information of a confidential nature that includes a  
118 formula, pattern, compilation, program, device, method,  
119 technique, or process used that derives independent economic  
120 value, actual or potential, from not being generally known to,  
121 and not being readily ascertainable by proper means by, other  
122 persons who can obtain economic value from its disclosure or  
123 use. Therefore, the Legislature finds that the need to protect  
124 trade secrets is sufficiently compelling to override this  
125 state's public policy of open government and that the protection

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126 | of such information cannot be accomplished without this  
127 | exemption.

128 |       Section 5. This act shall take effect upon becoming a law.