

By the Committee on Commerce and Economic Opportunities

310-558A-01

1 A bill to be entitled
2 An act relating to public records; amending s.
3 288.1066, F.S.; abrogating the scheduled repeal
4 of a public records exemption for specified
5 business information received under the
6 qualified defense contractor and qualified
7 target industry tax refund programs;
8 eliminating obsolete references to the
9 Department of Commerce; making the listing of
10 tax information covered by the public records
11 exemption consistent with the program's terms
12 and conditions; providing confidentiality for
13 information concerning taxes paid by businesses
14 while participating in the programs; providing
15 confidentiality for information concerning jobs
16 created and wages paid by such businesses;
17 providing for future repeal and legislative
18 review; providing a statement of public
19 necessity; providing an effective date.

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

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23 Section 1. Section 288.1066, Florida Statutes, is
24 amended to read:

25 288.1066 Confidentiality of records.--

26 (1) The following information when received by ~~the~~
27 ~~Department of Commerce,~~ the Office of Tourism, Trade, and
28 Economic Development; Enterprise Florida, Inc.; or county or
29 municipal governmental entities and their employees pursuant
30 to the qualified defense contractor tax refund program as
31 required by s. 288.1045 is confidential and exempt from the

1 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
2 Constitution for a period not to exceed the duration of the
3 tax refund agreement or 10 years, whichever is earlier:
4 (a) The applicant's federal employer identification
5 number and Florida sales tax registration number.
6 (b) The percentage of the applicant's gross receipts
7 derived from Department of Defense contracts during the 5
8 taxable years immediately preceding the date the application
9 is submitted.
10 (c) The amount of:
11 1. Taxes on sales, use, and other transactions paid
12 pursuant to chapter 212;
13 2. Corporate income taxes paid pursuant to chapter
14 220;
15 3. Intangible personal property taxes paid pursuant to
16 chapter 199;
17 4. Emergency excise taxes paid pursuant to chapter
18 221;
19 5. Excise taxes on documents paid pursuant to chapter
20 201;and
21 6.5. Ad valorem taxes paid
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23 during the 5 fiscal years immediately preceding the date of
24 the application, and the projected amounts of such taxes to be
25 due in the 3 fiscal years immediately following the date of
26 the application.
27 (d) The amount of the taxes specified in paragraph (c)
28 which the qualified applicant paid during the tax refund
29 agreement and for which the qualified applicant seeks a tax
30 refund under s. 288.1045.
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1 (e)~~(d)~~ Any trade secret information as defined in s.
2 812.081 contained within any statement concerning the
3 applicant's need for tax refunds or concerning the proposed
4 uses of such refunds by the applicant.

5 (f) Data concerning the number of jobs created and the
6 wages paid for those jobs by a qualified applicant which are
7 submitted as part of a claim for a tax refund under s.
8 288.1045 and as evidence of the achievement of performance
9 items contained in the tax refund agreement.

10 (2) The following information when received by ~~the~~
11 ~~Department of Commerce;~~ the Office of Tourism, Trade, and
12 Economic Development; Enterprise Florida, Inc.; or county or
13 municipal governmental entities and their employees pursuant
14 to the qualified target industry tax refund program as
15 required by s. 288.106 is confidential and exempt from the
16 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
17 Constitution for a period not to exceed the duration of the
18 tax refund agreement or 10 years, whichever is earlier:

19 (a) The applicant's federal employer identification
20 number and Florida sales tax registration number.

21 (b) Any trade secret information as defined in s.
22 812.081 contained within any description of the type of
23 business activity or product covered by the project.

24 (c) The anticipated wages of those jobs projected to
25 be created by the project.

26 (d) The amount of:

27 1. Taxes on sales, use, and other transactions paid
28 pursuant to chapter 212;

29 2. Corporate income taxes paid pursuant to chapter
30 220;

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1 3. Intangible personal property taxes paid pursuant to
2 chapter 199;

3 4. Emergency excise taxes paid pursuant to chapter
4 221;

5 5. Insurance premium taxes paid pursuant to s.
6 624.509;

7 6. Excise taxes on documents paid pursuant to chapter
8 201;and

9 7.5. Ad valorem taxes paid

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11 during the 5 fiscal years immediately preceding the date of
12 the application, and the projected amounts of such taxes to be
13 due in the 3 fiscal years immediately following the date of
14 the application.

15 (e) The amount of the taxes specified in paragraph (d)
16 which the qualified target industry business paid during the
17 tax refund agreement and for which the business seeks a tax
18 refund under s. 288.106.

19 (f)(e) Any trade secret information as defined in s.
20 812.081 contained within any statement concerning the role
21 that the tax refunds requested will play in the decision of
22 the applicant to locate or expand in this state.

23 (g)(f) An estimate of the proportion of the sales
24 resulting from the project that will be made outside this
25 state.

26 (h) Data concerning the number of jobs created by the
27 project and the wages paid for those jobs by a qualified
28 target industry business which are submitted as part of a
29 claim for a tax refund under s. 288.106 and as evidence of the
30 achievement of performance items contained in the tax refund
31 agreement.

1 (3) Nothing contained in this section shall prevent
2 ~~the Department of Commerce~~ the Office of Tourism, Trade, and
3 Economic Development; Enterprise Florida, Inc.; or any county
4 or municipal governmental entity receiving the information
5 described in this section from publishing statistics in the
6 aggregate and so classified as to prevent the identification
7 of a single qualified applicant.

8 (4) This section is subject to the Open Government
9 Sunset Review Act of 1995 in accordance with s. 119.15, and
10 shall stand repealed on October 2, 2006 ~~October 2, 2001~~,
11 unless reviewed and saved from repeal through reenactment by
12 the Legislature.

13 Section 2. The Legislature finds that it is a public
14 necessity that the confidentiality provided by section
15 288.1066, Florida Statutes, for specified information received
16 under the qualified defense contractor and qualified target
17 industry tax refund programs be expanded to include
18 information concerning the amount of taxes paid by qualified
19 businesses while participating in the programs which
20 information provides the basis for actual tax refunds sought
21 under the programs. The Legislature further finds that it is a
22 public necessity that such confidentiality also be expanded to
23 include information concerning the number of jobs created and
24 the amount of wages paid for those jobs by qualified
25 businesses participating in the programs which information
26 businesses must submit to demonstrate compliance with the
27 terms of tax refund agreements. Finally, the Legislature finds
28 that the listing of taxes to which confidentiality currently
29 applies under section 288.1066, Florida Statutes, should be
30 expanded to include excise taxes on documents and insurance
31 premium taxes because these taxes provide a basis for tax

1 refunds under the programs, thus conforming the scope of
2 confidentiality to the scope of the programs. An exemption
3 from the public records requirements for information
4 concerning the amount of taxes paid and for information
5 concerning employment and wages is necessary because the
6 disclosure of such information could injure a business in the
7 marketplace by providing its competitors with detailed
8 insights into the financial status and strategic plans of the
9 business, thereby diminishing the advantage that the business
10 maintains over those who do not possess such information.
11 Without this exemption, private businesses whose records are
12 not required to be open might refrain from participating in
13 these economic development programs and thus would be unable
14 to use the tax refunds available. If a business were unable to
15 use the tax refunds, it might choose to locate its
16 job-creating and investment activities outside the state,
17 depriving the state and the public of the potential economic
18 benefits associated with such activities. The harm to
19 businesses in the marketplace and to effective administration
20 of these economic development programs caused by the release
21 of such information far outweighs the public benefit derived
22 from release of such information.

23 Section 3. This act shall take effect October 1, 2001.
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SENATE SUMMARY

Saves from repeal a public records exemption for specified business information that is received by the Office of Tourism, Trade, and Economic Development; Enterprise Florida, Inc.; or county or municipal governmental entities through their administration of the Qualified Defense Contractor (QDC) Tax Refund Program and the Qualified Target Industry (QTI) Tax Refund Program. Revises the exemption to include information concerning actual taxes paid by a business while participating in the QDC or QTI tax refund programs which information the business submits as part of its claim for a tax refund. Confirms the listing of tax information covered by the public records exemption to the listing of taxes for which refunds may be obtained under the two programs. Provides confidentiality for actual employment and wage data submitted by a participating business as proof of its compliance with performance conditions established under the programs.