

1                                   A bill to be entitled  
 2           An act relating to public records exemptions; amending s.  
 3           288.1067, F.S.; expanding the public records exemption for  
 4           incentive programs to include the Innovation Incentive  
 5           Program under s. 288.1089, F.S.; providing for future  
 6           review and repeal; providing a statement of public  
 7           necessity; providing a contingent effective date.

8

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

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11           Section 1. Subsections (1) and (4) of section 288.1067,  
 12   Florida Statutes, are amended to read:

13           288.1067 Confidentiality of records.--

14           (1) The following information held by the Office of  
 15   Tourism, Trade, and Economic Development, Enterprise Florida,  
 16   Inc., or county or municipal governmental entities, and their  
 17   employees or agents, pursuant to the incentive programs for  
 18   qualified businesses as provided in s. 220.191, s. 288.1045, s.  
 19   288.106, s. 288.108, ~~or~~ s. 288.1088, or s. 288.1089 is  
 20   confidential and exempt from the provisions of s. 119.07(1) and  
 21   s. 24(a), Art. I of the State Constitution, for a period not to  
 22   exceed the duration of the relevant tax refund, tax credit, or  
 23   incentive agreement:

24           (a) The business's federal employer identification number,  
 25   unemployment compensation account number, and Florida sales tax  
 26   registration number.

27 (b) Any trade secret information as defined in s. 812.081.  
28 Notwithstanding any provision of this section, trade secret  
29 information shall continue to be confidential and exempt after  
30 the duration of the tax refund, tax credit, or incentive  
31 agreement.

32 (c) The percentage of the business's sales occurring  
33 outside this state and, for businesses applying under s.  
34 288.1045, the percentage of the business's gross receipts  
35 derived from Department of Defense contracts during the 5 years  
36 immediately preceding the date the business's application is  
37 submitted.

38 (d) The anticipated wages for the project jobs that the  
39 business plans to create, as reported on the application for  
40 certification.

41 (e) The average wage actually paid by the business for  
42 those jobs created by the project and any detailed proprietary  
43 business information or an employee's personal identifying  
44 information, held as evidence of the achievement or  
45 nonachievement of the wage requirements of the tax refund, tax  
46 credit, or incentive agreement programs or of the job creation  
47 requirements of such programs.

48 (f) Any proprietary business information regarding capital  
49 investment in eligible building and equipment made by the  
50 qualified business project when held by the Office of Tourism,  
51 Trade, and Economic Development as evidence of the achievement  
52 or nonachievement of the investment requirements for the tax  
53 credit certification under s. 220.191, for the high-impact

54 performance agreement under s. 288.108, ~~or~~ for the Quick Action  
 55 Closing Fund agreement under s. 288.1088, or for the Innovation  
 56 Incentive Program agreement under s. 288.1089.

57 (g) The amount of:

- 58 1. Taxes on sales, use, and other transactions paid
- 59 pursuant to chapter 212;
- 60 2. Corporate income taxes paid pursuant to chapter 220;
- 61 3. Intangible personal property taxes paid pursuant to
- 62 chapter 199;
- 63 4. Emergency excise taxes paid pursuant to chapter 221;
- 64 5. Insurance premium taxes paid pursuant to chapter 624;
- 65 6. Excise taxes paid on documents pursuant to chapter 201;

66 or

- 67 7. Ad valorem taxes paid, as defined in s. 220.03(1),

68  
 69 which the qualified business reports on its application for  
 70 certification or reports during the term of the tax refund  
 71 agreement, and for which the qualified business claims a tax  
 72 refund under s. 288.1045 or s. 288.106, and any such information  
 73 held as evidence of the achievement or nonachievement of  
 74 performance items contained in the tax refund agreement.

75 (4) This section is subject to the Open Government Sunset  
 76 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand  
 77 repealed on October 2, 2011 ~~2007~~, unless reviewed and saved from  
 78 repeal through reenactment by the Legislature.

79 Section 2. The Legislature finds that it is a public  
 80 necessity to provide confidentiality for certain information

81 concerning businesses that is obtained through the  
82 administration of the Innovation Incentive Program for qualified  
83 innovation businesses under s. 288.1089, Florida Statutes. The  
84 disclosure of information such as trade secrets, tax  
85 identification numbers, analyses of gross receipts, the amount  
86 of taxes paid, the amount of capital investment, and the amount  
87 of employee wages paid, and the detailed documentation to  
88 substantiate such performance information, could injure a  
89 business in the marketplace by providing its competitors with  
90 detailed insights into the financial status and the strategic  
91 plans of the business, thereby diminishing the advantage that  
92 the business maintains over those that do not possess such  
93 information. Without this exemption, private sector businesses,  
94 whose records generally are not required to be open to the  
95 public, might refrain from participating in the economic  
96 development program and thus would not be able to use the  
97 incentives available under the program. If a business were  
98 unable to use the incentives, the business might choose to  
99 locate its employment and other investment activities outside  
100 the state, depriving the state and the public of the potential  
101 economic benefits associated with such business activities in  
102 this state. The harm to businesses in the marketplace and to the  
103 effective administration of the economic development program  
104 caused by the public disclosure of such information far  
105 outweighs the public benefits derived from its release. In  
106 addition, because the confidentiality provided by s. 288.1067,  
107 Florida Statutes, does not preclude the reporting of statistics

108 | in the aggregate concerning the program, as well as the names of  
109 | businesses participating in the program and the amount of  
110 | incentives awarded and claimed, the public has access to  
111 | information important to an assessment of the performance of the  
112 | program.

113 |       Section 3. This act shall take effect July 1, 2006, if  
114 | House Bill 1283 or similar legislation is adopted in the same  
115 | legislative session or an extension thereof and becomes a law.