

ENROLLED

CS/HB 1055, Engrossed 1

2021 Legislature

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An act relating to public records; creating s. 119.0715, F.S.; providing an exemption from public records requirements for a trade secret held by an agency; providing that an agency employee is not liable for the release of certain records; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

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.

(3) AGENCY ACCESS.—An agency may disclose a trade secret to an officer or employee of another agency or governmental entity whose use of the trade secret is within the scope of his or her lawful duties and responsibilities.

(4) LIABILITY.—An agency employee who, while acting in good faith and in the performance of his or her duties, releases

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26 | a record containing a trade secret pursuant to this chapter is
27 | not liable, civilly or criminally, for such release.

28 | (5) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
29 | to the Open Government Sunset Review Act in accordance with s.
30 | 119.15 and shall stand repealed on October 2, 2026, unless
31 | reviewed and saved from repeal through reenactment by the
32 | Legislature.

33 | Section 2. The Legislature finds that it is a public
34 | necessity that trade secrets held by an agency be made
35 | confidential and exempt from s. 119.07(1), Florida Statutes, and
36 | s. 24(a), Article I of the State Constitution. The Legislature
37 | recognizes that an agency may create trade secret information in
38 | furtherance of the agency's duties and responsibilities and that
39 | disclosure of such information would be detrimental to the
40 | effective and efficient operation of the agency. If such trade
41 | secret information were made available to the public, the agency
42 | could suffer great economic harm. In addition, the Legislature
43 | recognizes that in many instances, individuals and businesses
44 | provide trade secret information for regulatory or other
45 | purposes to an agency and that disclosure of such information to
46 | competitors of those businesses would be detrimental to the
47 | businesses. Without the public record exemption, those entities
48 | would hesitate to cooperate with an agency, which would impair
49 | the effective and efficient administration of governmental
50 | functions. As such, the Legislature's intent is to protect trade

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51 secret information of a confidential nature that includes a
52 formula, pattern, compilation, program, device, method,
53 technique, or process used that derives independent economic
54 value, actual or potential, from not being generally known to,
55 and not being readily ascertainable by proper means by, other
56 persons who can obtain economic value from its disclosure or
57 use. Therefore, the Legislature finds that the need to protect
58 trade secrets is sufficiently compelling to override this
59 state's public policy of open government and that the protection
60 of such information cannot be accomplished without this
61 exemption.

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