

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 288.075, F.S., which
 4 provides public record exemptions for information held
 5 by economic development agencies; saving from repeal
 6 the exemption concerning plans, intentions, or
 7 interests of a private corporation, partnership, or
 8 person to locate, relocate, or expand any of its
 9 business activities in this state; providing that the
 10 exemption applies if a request for confidentiality is
 11 made before an economic incentive agreement is signed;
 12 revising the duration of the period in which
 13 information may remain confidential and exempt from
 14 disclosure; saving from repeal the exemption for trade
 15 secrets; saving from repeal the exemption for
 16 proprietary confidential business information; saving
 17 from repeal the exemption for identification, account,
 18 and registration numbers and sales, wage, and tax data
 19 relating to a recipient of an economic development
 20 incentive; providing that the taxes paid by businesses
 21 participating in an economic incentive program may be
 22 disclosed in the aggregate; authorizing the disclosure
 23 of specified information relating to a business 180
 24 days after the final project order for an economic
 25 incentive agreement is issued, until a date specified
 26 in the final project order, or if the information is
 27 otherwise disclosed, whichever occurs first; removing

28 | the scheduled repeal of the exemptions; providing an
 29 | effective date.

30 |

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

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33 | Section 1. Section 288.075, Florida Statutes, is amended
 34 | to read:

35 | 288.075 Confidentiality of records.—

36 | (1) DEFINITIONS.—As used in this section, the term:

37 | (a) "Economic development agency" means:

38 | 1. The Department of Economic Opportunity;

39 | 2. Any industrial development authority created in
 40 | accordance with part III of chapter 159 or by special law;

41 | 3. Space Florida created in part II of chapter 331;

42 | 4. The public economic development agency of a county or
 43 | municipality or, if the county or municipality does not have a
 44 | public economic development agency, the county or municipal
 45 | officers or employees assigned the duty to promote the general
 46 | business interests or industrial interests of that county or
 47 | municipality or the responsibilities related thereto;

48 | 5. Any research and development authority created in
 49 | accordance with part V of chapter 159; or

50 | 6. Any private agency, person, partnership, corporation,
 51 | or business entity when authorized by the state, a municipality,
 52 | or a county to promote the general business interests or
 53 | industrial interests of the state or that municipality or
 54 | county.

55 | (b) "Proprietary confidential business information" means

56 information that is owned or controlled by the corporation,
 57 partnership, or person requesting confidentiality under this
 58 section; that is intended to be and is treated by the
 59 corporation, partnership, or person as private in that the
 60 disclosure of the information would cause harm to the business
 61 operations of the corporation, partnership, or person; that has
 62 not been disclosed unless disclosed pursuant to a statutory
 63 provision, an order of a court or administrative body, or a
 64 private agreement providing that the information may be released
 65 to the public; and that is information concerning:

- 66 1. Business plans.
- 67 2. Internal auditing controls and reports of internal
 68 auditors.
- 69 3. Reports of external auditors for privately held
 70 companies.

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

72 (2) PLANS, INTENTIONS, AND INTERESTS.—

73 (a) 1. ~~If Upon written request from~~ a private corporation,
 74 partnership, or person requests in writing before an economic
 75 incentive agreement is signed that, ~~information held by an~~
 76 economic development agency maintain the confidentiality of
 77 information concerning plans, intentions, or interests of such
 78 private corporation, partnership, or person to locate, relocate,
 79 or expand any of its business activities in this state, the
 80 information is confidential and exempt from s. 119.07(1) and s.
 81 24(a), Art. I of the State Constitution for 12 months after the
 82 date an economic development agency receives a request for
 83 confidentiality ~~or until the information is otherwise disclosed,~~

84 ~~whichever occurs first.~~

85 2.~~(b)~~ An economic development agency may extend the period
 86 of confidentiality specified in subparagraph 1. ~~paragraph (a)~~
 87 for up to an additional 12 months upon written request from the
 88 private corporation, partnership, or person who originally
 89 requested confidentiality under this section and upon a finding
 90 by the economic development agency that such private
 91 corporation, partnership, or person is still actively
 92 considering locating, relocating, or expanding its business
 93 activities in this state. Such a request for an extension in the
 94 period of confidentiality must be received prior to the
 95 expiration of any confidentiality originally provided under
 96 subparagraph 1. ~~this section.~~

97
 98 However, if a final project order for a signed economic
 99 development agreement is issued, then the information will
 100 remain confidential and exempt for 180 days after the final
 101 project order is issued, until a date specified in the final
 102 project order, or until the information is otherwise disclosed,
 103 whichever occurs first.

104 ~~(b)~~~~(e)~~ A public officer or employee may not enter into a
 105 binding agreement with any corporation, partnership, or person
 106 who has requested confidentiality of information under this
 107 subsection until 90 days after the information is made public
 108 unless:

- 109 1. The public officer or employee is acting in an official
- 110 capacity;
- 111 2. The agreement does not accrue to the personal benefit

112 of such public officer or employee; and

113 3. In the professional judgment of the officer or
 114 employee, the agreement is necessary to effectuate an economic
 115 development project.

116 (3) TRADE SECRETS.—Trade secrets held by an economic
 117 development agency are confidential and exempt from s. 119.07(1)
 118 and s. 24(a), Art. I of the State Constitution.

119 (4) PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.—
 120 Proprietary confidential business information held by an
 121 economic development agency is confidential and exempt from s.
 122 119.07(1) and s. 24(a), Art. I of the State Constitution, until
 123 such information is otherwise publicly available or is no longer
 124 treated by the proprietor as proprietary confidential business
 125 information.

126 (5) IDENTIFICATION, ACCOUNT, AND REGISTRATION NUMBERS.—A
 127 federal employer identification number, unemployment
 128 compensation account number, or Florida sales tax registration
 129 number held by an economic development agency is confidential
 130 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 131 Constitution.

132 (6) ECONOMIC INCENTIVE PROGRAMS.—

133 (a) The following information held by an economic
 134 development agency pursuant to the administration of an economic
 135 incentive program for qualified businesses is confidential and
 136 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 137 Constitution for a period not to exceed the duration of the
 138 incentive agreement, including an agreement authorizing a tax
 139 refund or tax credit, or upon termination of the incentive

140 agreement:

141 1. The percentage of the business's sales occurring
 142 outside this state and, for businesses applying under s.
 143 288.1045, the percentage of the business's gross receipts
 144 derived from Department of Defense contracts during the 5 years
 145 immediately preceding the date the business's application is
 146 submitted.

147 ~~2. The anticipated wages for the project jobs that the~~
 148 ~~business plans to create, as reported on the application for~~
 149 ~~certification.~~

150 ~~2.3. The average wage actually paid by the business for~~
 151 ~~those jobs created by the project or An individual employee's~~
 152 ~~personal identifying information that ~~which~~ is held as evidence~~
 153 ~~of the achievement or nonachievement of the wage requirements of~~
 154 ~~the tax refund, tax credit, or incentive agreement programs or~~
 155 ~~of the job creation requirements of such programs.~~

156 ~~3.4.~~ The amount of:

- 157 a. Taxes on sales, use, and other transactions paid
- 158 pursuant to chapter 212;
- 159 b. Corporate income taxes paid pursuant to chapter 220;
- 160 c. Intangible personal property taxes paid pursuant to
- 161 chapter 199;
- 162 d. Insurance premium taxes paid pursuant to chapter 624;
- 163 e. Excise taxes paid on documents pursuant to chapter 201;
- 164 f. Ad valorem taxes paid, as defined in s. 220.03(1); or
- 165 g. State communications services taxes paid pursuant to
- 166 chapter 202.

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168 However, an economic development agency may disclose in the
 169 annual incentives report required under s. 288.907 the aggregate
 170 amount of each tax identified in this subparagraph and paid by
 171 all businesses participating in each economic incentive program.

172 (b)1. The following information held by an economic
 173 development agency relating to a specific business participating
 174 in an economic incentive program is no longer confidential or
 175 exempt 180 days after a final project order for an economic
 176 incentive agreement is issued, until a date specified in the
 177 final project order, or if the information is otherwise
 178 disclosed, whichever occurs first ~~may release:~~

179 a. The name ~~Names~~ of the qualified business ~~businesses.~~

180 b. The total number of jobs the ~~each~~ business committed
 181 ~~expects~~ to create or retain.

182 c. The total number of jobs created or retained by the
 183 ~~each~~ business.

184 d. Notwithstanding s. 213.053(2), the amount of tax
 185 refunds, tax credits, or incentives awarded to, and claimed by,
 186 or, if applicable, refunded to the state by the ~~each~~ business.

187 e. The anticipated total annual wages of employees the
 188 business committed to hire or retain.

189 2. For a business applying for certification under s.
 190 288.1045 which is based on obtaining a new Department of Defense
 191 contract, the total number of jobs expected and the amount of
 192 tax refunds claimed may not be released until the new Department
 193 of Defense contract is awarded.

194 ~~(c) An economic development agency may publish statistics~~
 195 ~~in the aggregate and classified so as to prevent the~~

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196 ~~identification of a single qualified applicant.~~

197 (7) PENALTIES.—Any person who is an employee of an
 198 economic development agency who violates the provisions of this
 199 section commits a misdemeanor of the second degree, punishable
 200 as provided in s. 775.082 or s. 775.083.

201 ~~(8) LEGISLATIVE REVIEW OF EXEMPTIONS.—This section is~~
 202 ~~subject to the Open Government Sunset Review Act in accordance~~
 203 ~~with s. 119.15 and shall stand repealed on October 2, 2012,~~
 204 ~~unless reviewed and saved from repeal through reenactment by the~~
 205 ~~Legislature.~~

206 Section 2. This act shall take effect upon becoming a law.