

House Bill No. 1285

An act relating to public records exemptions; amending s. 288.1067, F.S.; expanding the public records exemption for incentive programs to include the Innovation Incentive Program under s. 288.1089, F.S.; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

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

288.1067 Confidentiality of records.—

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

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

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

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

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

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

(f) Any proprietary business information regarding capital investment in eligible building and equipment made by the qualified business project when

held by the Office of Tourism, Trade, and Economic Development as evidence of the achievement or nonachievement of the investment requirements for the tax credit certification under s. 220.191, for the high-impact performance agreement under s. 288.108, ~~or~~ for the Quick Action Closing Fund agreement under s. 288.1088, or for the Innovation Incentive Program agreement under s. 288.1089.

(g) The amount of:

1. Taxes on sales, use, and other transactions paid pursuant to chapter 212;
2. Corporate income taxes paid pursuant to chapter 220;
3. Intangible personal property taxes paid pursuant to chapter 199;
4. Emergency excise taxes paid pursuant to chapter 221;
5. Insurance premium taxes paid pursuant to chapter 624;
6. Excise taxes paid on documents pursuant to chapter 201; or
7. Ad valorem taxes paid, as defined in s. 220.03(1),

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

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

Section 2. The Legislature finds that it is a public necessity to provide confidentiality for certain information concerning businesses that is obtained through the administration of the Innovation Incentive Program for qualified innovation businesses under s. 288.1089, Florida Statutes. The disclosure of information such as trade secrets, tax identification numbers, analyses of gross receipts, the amount of taxes paid, the amount of capital investment, and the amount of employee wages paid, and the detailed documentation to substantiate such performance information, could injure a business in the marketplace by providing its competitors with detailed insights into the financial status and the strategic plans of the business, thereby diminishing the advantage that the business maintains over those that do not possess such information. Without this exemption, private sector businesses, whose records generally are not required to be open to the public, might refrain from participating in the economic development program and thus would not be able to use the incentives available under the program. If a business were unable to use the incentives, the business might choose to locate its employment and other investment activities outside the state, depriving the state and the public of the potential economic benefits

associated with such business activities in this state. The harm to businesses in the marketplace and to the effective administration of the economic development program caused by the public disclosure of such information far outweighs the public benefits derived from its release. In addition, because the confidentiality provided by s. 288.1067, Florida Statutes, does not preclude the reporting of statistics in the aggregate concerning the program, as well as the names of businesses participating in the program and the amount of incentives awarded and claimed, the public has access to information important to an assessment of the performance of the program.

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

Approved by the Governor May 30, 2006.

Filed in Office Secretary of State May 30, 2006.