

CHAPTER 2021-223

Committee Substitute for House Bill No. 1055

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

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REVIEW.—This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that trade secrets held by an agency be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature recognizes that an agency may create trade secret information in furtherance of the agency’s duties and responsibilities and that disclosure of such information would be detrimental to the effective and efficient operation of the agency. If such trade secret information were made available to the public, the agency could suffer great economic harm. In addition, the Legislature recognizes that in many instances, individuals and businesses provide trade secret information for regulatory or other purposes to an agency and that disclosure of such information to competitors of those businesses would be detrimental to the businesses. Without the public

record exemption, those entities would hesitate to cooperate with an agency, which would impair the effective and efficient administration of governmental functions. As such, the Legislature's intent is to protect trade secret information of a confidential nature that includes a formula, pattern, compilation, program, device, method, technique, or process used that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Therefore, the Legislature finds that the need to protect trade secrets is sufficiently compelling to override this state's public policy of open government and that the protection of such information cannot be accomplished without this exemption.

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

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.