

1 A bill to be entitled
 2 An act relating to public records; creating s. 688.01,
 3 F.S.; providing definitions; providing an exemption
 4 from public record requirements for a trade secret
 5 held by an agency; providing notice requirements;
 6 providing an exception to the exemption; providing
 7 that an agency employee is not liable for the release
 8 of records in compliance with the act; providing
 9 applicability; providing for future legislative review
 10 and repeal of the exemption; amending ss. 688.001 and
 11 688.006, F.S.; conforming cross-references; providing
 12 a statement of public necessity; providing a
 13 contingent effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Section 688.01, Florida Statutes, is created to
 18 read:

19 688.01 Trade secret exemption from inspecting or copying
 20 public records.-

21 (1) DEFINITIONS.-As used in this section, the term:

22 (a) "Agency" has the same meaning as in s. 119.011.

23 (b) "Trade secret" has the same meaning as in s. 688.002,
 24 except that the term does not include the following information
 25 related to any contract or agreement, or an addendum thereto,

26 with an agency:

27 1. The parties to the contract or agreement, or an
28 addendum thereto.

29 2. The amount of money paid, any payment structure or
30 plan, expenditures, incentives, bonuses, fees, or penalties.

31 3. The nature or type of commodities or services
32 purchased.

33 4. Applicable contract unit prices and deliverables.

34 (2) PUBLIC RECORD EXEMPTION.—A trade secret held by an
35 agency is confidential and exempt from s. 119.07(1) and s.
36 24(a), Art. I of the State Constitution.

37 (3) SUBMISSION OF TRADE SECRET TO AN AGENCY.—

38 (a) If a person who submits records to an agency claims
39 that such submission contains a trade secret, such person shall
40 submit to the agency a notice of trade secret at the time such
41 records are submitted to the agency. Failure to do so
42 constitutes a waiver of any claim by such person that the record
43 contains a trade secret. The notice must provide the name,
44 telephone number, and mailing address of the person claiming the
45 record contains a trade secret. Such person is responsible for
46 updating his or her contact information with the agency.

47 (b) Each page of a record or specific portion of a record
48 that contains a trade secret must be clearly marked with the
49 words "trade secret."

50 (c) In submitting a notice of trade secret to the agency,
51 the submitting party must verify to the agency through a written
52 declaration in the manner provided in s. 92.525 the following:
53

54 [...I have/my company has...] read the definition of a
55 trade secret in s. 688.01, Florida Statutes, and [...I
56 believe/my company believes...] the information contained in
57 this record is a trade secret as defined in s. 688.01, Florida
58 Statutes.

59 [...I have/my company has...] taken measures to prevent the
60 disclosure of the record or specific portion of a record claimed
61 to be a trade secret to anyone other than those who have been
62 selected to have access for limited purposes, and [...I
63 intend/my company intends...] to continue to take such measures.

64 The record or specific portion of a record claimed to be a
65 trade secret is not, and has not been, reasonably obtainable
66 without [...my/our...] consent by other persons by use of
67 legitimate means.

68 The record or specific portion of a record claimed to be a
69 trade secret is not publicly available elsewhere.
70

71 (4) AGENCY ACCESS.—An agency may disclose a trade secret,
72 together with the notice of trade secret, to an officer or
73 employee of another agency or governmental entity whose use of
74 the trade secret is within the scope of his or her lawful duties

75 and responsibilities.

76 (5) LIABILITY.—An agency employee who, while acting in
77 good faith and in the performance of his or her duties, releases
78 a record containing a trade secret pursuant to this act is not
79 liable, civilly or criminally, for such release.

80 (6) APPLICABILITY.—This section does not apply to research
81 institutes created or established in law, divisions of sponsored
82 research at state universities, or technology transfer centers
83 at Florida College System institutions.

84 (7) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
85 to the Open Government Sunset Review Act in accordance with s.
86 119.15 and shall stand repealed on October 2, 2025, unless
87 reviewed and saved from repeal through reenactment by the
88 Legislature.

89 Section 2. Section 688.001, Florida Statutes, is amended
90 to read:

91 688.001 Short title.—Sections 688.001-688.01 ~~Sections~~
92 ~~688.001-688.009~~ may be cited as the "Uniform Trade Secrets Act."

93 Section 3. Section 688.006, Florida Statutes, is amended
94 to read:

95 688.006 Preservation of secrecy.—In an action under ss.
96 688.001-688.01 ~~ss. 688.001-688.009~~, a court shall preserve the
97 secrecy of an alleged trade secret by reasonable means, which
98 may include granting protective orders in connection with
99 discovery proceedings, holding in camera hearings, sealing the

100 records of the action, and ordering any person involved in the
101 litigation not to disclose an alleged trade secret without prior
102 court approval.

103 Section 4. The Legislature finds that it is a public
104 necessity that trade secrets held by an agency be made
105 confidential and exempt from s. 119.07(1), Florida Statutes, and
106 s. 24(a), Article I of the State Constitution. The Legislature
107 recognizes that an agency may create trade secret information in
108 furtherance of the agency's duties and responsibilities and that
109 disclosure of such information would be detrimental to the
110 effective and efficient operation of the agency. If such trade
111 secret information were made available to the public, the agency
112 could suffer great economic harm. In addition, the Legislature
113 recognizes that in many instances, individuals and businesses
114 provide trade secret information for regulatory or other
115 purposes to an agency and that disclosure of such information to
116 competitors of those businesses would be detrimental to the
117 businesses. Without the public record exemption, those entities
118 would hesitate to cooperate with an agency, which would impair
119 the effective and efficient administration of governmental
120 functions. As such, the Legislature's intent is to protect trade
121 secret information of a confidential nature that includes a
122 formula, pattern, compilation, program, device, method,
123 technique, or process used that derives independent economic
124 value, actual or potential, from not being generally known to,

125 | and not being readily ascertainable by proper means by, other
126 | persons who can obtain economic value from its disclosure or
127 | use. Therefore, the Legislature finds that the need to protect
128 | trade secrets is sufficiently compelling to override this
129 | state's public policy of open government and that the protection
130 | of such information cannot be accomplished without this
131 | exemption.

132 | Section 5. This act shall take effect on the same date
133 | that HB 801 or similar legislation takes effect, if such
134 | legislation is adopted in the same legislative session or an
135 | extension thereof and becomes a law.