

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 records 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 certain records; providing for future legislative
 9 review and repeal of the exemption; amending ss.
 10 688.001 and 688.006, F.S.; conforming cross-
 11 references; providing a statement of public necessity;
 12 providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

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

18 688.01 Trade secret exemption from inspecting or copying
 19 public records.-

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

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

22 (b) "Trade secret" has the same meaning as in s. 688.002.

23 (2) PUBLIC RECORD EXEMPTION.-A trade secret held by an
 24 agency is confidential and exempt from s. 119.07(1) and s.
 25 24(a), Art. I of the State Constitution.

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

27 (a) If a person who submits records to an agency claims
28 that such submission contains a trade secret, such person shall
29 submit to the agency a notice of trade secret at the time he or
30 she submits such records to the agency. Failure to do so
31 constitutes a waiver of any claim by such person that the record
32 contains a trade secret. The notice must provide the name,
33 telephone number, and mailing address of the person claiming the
34 record contains a trade secret. Such person is responsible for
35 updating his or her contact information with the agency.

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

39 (c) When submitting a notice of trade secret to the
40 agency, the submitting party must verify to the agency through a
41 written declaration in the manner provided in s. 92.525 the
42 following:

43
44 [...I have/my company has...] read the definition of a
45 trade secret in s. 688.01, Florida Statutes, and [...I
46 believe/my company believes...] the information contained in
47 this record is a trade secret as defined in s. 688.01, Florida
48 Statutes.

49 [...I have/my company has...] taken measures to prevent the
50 disclosure of the record or specific portion of the record

51 claimed to be a trade secret to anyone other than those who have
52 been selected to have access for limited purposes, and [...I
53 intend/my company intends...] to continue to take such measures.

54 The record or specific portion of the record claimed to be
55 a trade secret is not, and has not been, reasonably obtainable
56 without [...my/our...] consent by other persons by use of
57 legitimate means.

58 The record or specific portion of the record claimed to be
59 a trade secret is not publicly available elsewhere.

60
61 (4) AGENCY ACCESS.—An agency may disclose a trade secret,
62 together with the notice of trade secret, to an officer or
63 employee of another agency or governmental entity whose use of
64 the trade secret is within the scope of his or her lawful duties
65 and responsibilities.

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

70 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
71 to the Open Government Sunset Review Act in accordance with s.
72 119.15 and shall stand repealed on October 2, 2026, unless
73 reviewed and saved from repeal through reenactment by the
74 Legislature.

75 Section 2. Section 688.001, Florida Statutes, is amended

76 | to read:

77 | 688.001 Short title.—Sections 688.001-688.01 ~~Sections~~
 78 | ~~688.001-688.009~~ may be cited as the "Uniform Trade Secrets Act."

79 | Section 3. Section 688.006, Florida Statutes, is amended
 80 | to read:

81 | 688.006 Preservation of secrecy.—In an action under ss.
 82 | 688.001-688.01 ~~ss. 688.001-688.009~~, a court shall preserve the
 83 | secrecy of an alleged trade secret by reasonable means, which
 84 | may include granting protective orders in connection with
 85 | discovery proceedings, holding in camera hearings, sealing the
 86 | records of the action, and ordering any person involved in the
 87 | litigation not to disclose an alleged trade secret without prior
 88 | court approval.

89 | Section 4. The Legislature finds that it is a public
 90 | necessity that trade secrets held by an agency be made
 91 | confidential and exempt from s. 119.07(1), Florida Statutes, and
 92 | s. 24(a), Article I of the State Constitution. The Legislature
 93 | recognizes that an agency may create trade secret information in
 94 | furtherance of the agency's duties and responsibilities and that
 95 | disclosure of such information would be detrimental to the
 96 | effective and efficient operation of the agency. If such trade
 97 | secret information were made available to the public, the agency
 98 | could suffer great economic harm. In addition, the Legislature
 99 | recognizes that in many instances, individuals and businesses
 100 | provide trade secret information for regulatory or other

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

118 Section 5. This act shall take effect upon becoming a law.