



# HOUSE MAJORITY OFFICE

FLORIDA HOUSE OF REPRESENTATIVES



REPRESENTATIVE RAY RODRIGUES, MAJORITY LEADER

## Bill Snapshot

*HB 459 and HB 461: Public Records and Trade Secrets Held by an Agency*

Recently, numerous agencies have been in the spotlight for unjustified spending of taxpayer money while attempting to hide behind public records exemptions for trade secrets. The citizens of Florida have a right to know about where, how, and under what terms their tax dollars are being spent.

HB 459 and HB 461 aim to bring clarity when handling trade secrets by creating a uniform definition of “trade secret” and a uniform process for handling trade secrets. The definition clearly specifies information that does not constitute a trade secret, and the uniform process provides clear direction to agencies when responding to public records requests for records that contain information claimed to be a trade secret.

The most notable provisions of the bills are as follows (please refer to the bill text and analysis for more detailed information):

### **HB 459 specifies that the following is a public record:**

- Any contract or agreement, or an addendum thereto, to which an agency or an entity subject to public records requirements is a party, except that confidential or exempt information may be redacted prior to release of the contract or agreement, or an addendum thereto, if the specific statutory exemption is identified.
- Notwithstanding any other law, financial information related to any contract or agreement, or an addendum thereto, with an agency that is subject to public records laws. Financial information includes the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, and penalties.

### **The bill repeals the following:**

- All public records exemptions for trade secrets in current law, all associated processes for designating a trade secret, and all references to trade secrets contained in definitions for proprietary business information.
- The provision authorizing the Department of the Lottery to determine by rule information relating to the operation of the lottery that is confidential and exempt from public records requirements.

#### LAST SEEN:

Reported favorably with a Committee Substitute by the Oversight, Transparency & Administration Subcommittee

Sponsor: Rep. Massullo

#### CURRENTLY:

Referred to Government Accountability Committee

#### HEADING TO:

Government Accountability Committee



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## **HB 461:**

- Creates a public records exemption for trade secrets that applies to all agencies subject to public records requirements.
- Defines the term “trade secret” and specifically excludes from the definition any contract or agreement, or an addendum thereto, to which an agency is a party as well as financial information related to any contract or agreement.
  - Financial information includes amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees and penalties associated with the contract.
- Requires a person who submits to an agency records that contain a trade secret to mark the record with the words “trade secret” and attach a written verification under penalty of perjury that the marked information is a trade secret.
  - If a request is made for a record marked and verified as containing a trade secret, then the person who verified the record as containing a trade secret must file an action in circuit court within 30 days seeking a declaratory judgment that the record contains a trade secret and an order barring public disclosure of the record.
  - Failure to file an action within 30 days constitutes a waiver of any claim of confidentiality and the agency must release the record as requested. However, if the requestor withdraws the records request, the owner of the trade secret does not have to pursue a declaratory judgment and the agency must maintain the confidentiality of the record.