



## HB 761 and CS/HB 759 Trade Secrets

- Florida law contains a variety of provisions that make trade secret information exempt or confidential and exempt from public record requirements. Some exemptions only protect trade secrets, while others protect “proprietary business information” and define that term to specifically include trade secrets. Some exemptions also provide a specific process that an agency must use when protecting trade secret information under the exemption.
- **HB 761** creates a public record exemption for trade secrets that applies to most agencies that are subject to public record requirements.
- The bill defines the term “trade secret” and specifically excludes from the definition certain information related to any contract or agreement, or an addendum thereto, with an agency. Such information includes the parties to the contract or agreement; the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, or penalties; the nature or type of commodities or services purchased; and applicable contract unit prices and deliverables.
- The bill requires a person who submits a record claimed to be a trade secret to an agency to mark the record clearly with the words “trade secret” and to submit with the record a notice verifying, under penalty of perjury, that the record contains a trade secret.
- The bill provides for repeal of the exemption on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the Florida Constitution.
- **CS/HB 759** repeals most public record exemptions for trade secrets in current law, all associated processes for designating a trade secret, and most references to trade secrets contained in definitions for proprietary business information.
- The bill repeals a 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 record requirements.
- The bill repeals s. 815.045, F.S., which is a public necessity statement for a trade secret exemption that was inadvertently codified in the Florida Statutes.