



## Trade Secrets

With inconsistencies surrounding what constitutes a trade secret held by agencies scattered throughout Florida's statutes, HB 459 and HB 461 by Rep. Massullo creates a uniform definition of and process for handling trade secrets that clearly establishes information that is not included under the definition and provides clear direction to agencies when responding to public record requests for such information.

### The Issue

- Currently, Florida law includes numerous public record exemptions for trade secrets that are specific to specified agencies. Some exemptions only protect trade secrets, while others protect "proprietary business information" and define that term to specifically include trade secrets, among other things.
- Exemptions rely primarily on two different definitions of trade secrets.
  - One definition comes from the Uniform Trade Secrets Act (UTSA), which generally includes information that derives economic value from not being known to others and that is the subject of efforts to keep the information secret.
  - The second definition comes from Florida's criminal statutes and is similar to the UTSA definition, but specifically includes certain types of information, such as financial information and customer lists.
- Along with inconsistent definitions, there is no uniform approach for governmental or quasi-governmental entities to use when processing public records requests that may or may not involve trade secret exemptions.
- This lack of clarity can result in attempts to prevent the disclosure of public records by inappropriately invoking the trade secrets exemption.

### The Solution

- The House proposal establishes uniformity across all agencies for protecting trade secrets by creating a public record exemption for trade secrets in statute that applies to state government, local government and any other governmental or quasi-governmental agency as defined in Chapter 119. To ensure uniformity, the House proposal repeals all agency-specific exemptions for trade secrets and repeals all references to trade secrets that are in definitions for proprietary business information where possible.
- The exemption specifically excludes from the definition of "trade secret" any contract or agreement, or addendum thereto, to which an agency is a party, and any financial information associated with the agency contract, agreement, or addendum.
- Specifying that the contract, agreement, and any addendum thereto, in addition to financial information, **are not trade secrets** prevents agencies from protecting information, such as contract price, from public disclosure.
- While still protecting legitimately private information, this legislation will protect the public right to know about where, how, and under what terms taxpayer money is being spent.