

March 23, 2021



House State Affairs Committee  
209 House Office Building  
402 S. Monroe street  
Tallahassee, FL 32399-1300

House Bill 1055 Pub. Rec./Trade Secrets

Earlier this session, the First Amendment Foundation ("FAF") advocated in favor of legislation that would have repealed dozens of trade secret exemptions and provided a uniform definition of "trade secret" and a clear process to exempt such information. We initially supported House Bill 1055 because it, at least, narrowed the definition of trade secret and guaranteed that the amount of money paid to a third-party contractor could not be protected as trade secret.

However, due to a recent amendment to House Bill 1055, FAF has changed its position. We now oppose the legislation. House Bill 1055 now uses the same overbroad definition of trade secret currently in our law. This definition conceals contract bids and payment terms. Taxpayers deserve to know how their tax dollars are being spent.

Protection for trade secrets is meant to protect information of a confidential nature including a formula, technique, or process that derives independent economic value. An agency and private third party should not be able to hide bids or payment terms under the guise of trade secret.

The First Amendment Foundation suggests narrowing the definition of trade secret to specifically exclude contract bids and contract payment terms. This will ensure that the exemption is not abused. While we support placing the burden of proof on the private party that a trade secret exists and should be protected, the current definition could lead to further misapplication of the exemption. The public should not be in the dark as to contractors' bids to agencies or the amount of money paid to private entities.

Please do not hesitate to contact us if you have any information

Best regards,

FIRST AMENDMENT FOUNDATION

A handwritten signature in blue ink that reads "Pamela C. Marsh".

Pamela C. Marsh  
President

cc: The Honorable Chris Spowls, Speaker, Florida House  
The Honorable Tommy Gregory, Florida House  
Jim Baltzelle, Associated Press, Chair, First Amendment Foundation  
Samuel Morley, General Counsel, Florida Press Association  
Lisa Nellesen Savage, Chair, Florida Society of News Editors

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