



April 19, 2021

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Senate Rules Committee
402 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Re: Open Government Bills before the Senate Rules Committee

Dear Senators:

With House Bill 1055 and dozens of Open Government Sunset Review trade secret exemption bills on the Senate Rules agenda tomorrow, members of the committee have a prime opportunity to clarify and eliminate the myriad of trade secret exemptions and processes to withhold such information. House Bill 1055 creates a uniform procedure for third parties submitting records that contain trade secret information. Uniformity will increase efficiency for submitting and accessing public records.

However, House Bill 1055 uses the same definition of trade secret currently in law. Using this definition, private contractors and government agencies have concealed contract bids and payment terms. Protection for trade secrets was intended to safeguard information of a confidential nature, including a formula, a technique, or a process that provides independent economic value. An agency or private third party should not be able to hide bids or payment terms under the guise of trade secret.

The First Amendment Foundation suggests amending House Bill 1055 to ensure contract bids and payment terms are not withheld as trade secret information. Even when an agency attorney disagrees with a contractor that bids and price terms are not trade secret, a precise definition would clarify the meaning of legal terms and guarantee that contractors do not wrongfully conceal information.

Replacing the current patchwork approach with a consistent definition and procedure promotes efficiency and clarity. The Foundation encourages the committee to sunset all current trade secret exemptions and enact a uniform exemption with a narrow definition of trade secret.

Please do not hesitate to contact us if you have any questions or would like to discuss further our position on HB 1055.

With best regards,

FIRST AMENDMENT FOUNDATION



Pamela C. Marsh
Executive Director

cc: The Honorable Wilton Simpson, President, Florida Senate
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