Florida Senate - 2005

By Senator Posey

24-1418-05

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1	A bill to be entitled
2	An act relating to public records; amending s.
3	112.324, F.S.; providing an exemption from
4	public-records requirements for information and
5	referrals received by the Commission on Ethics
б	relating to violations of the ethics code until
7	the commission determines that it will not
8	investigate the complaint or referral;
9	providing for release of such information to
10	criminal investigative agencies; providing for
11	future legislative review and repeal under the
12	Open Government Sunset Review Act; providing a
13	finding of public necessity; providing an
14	effective date.
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16	Be It Enacted by the Legislature of the State of Florida:
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18	Section 1. Subsection (2) of section 112.324, Florida
19	Statutes, is amended to read:
20	112.324 Procedures on complaints of violations; public
21	records and meeting exemptions
22	(2) The complaint and records relating to the
23	complaint or to any preliminary investigation <u>, or the</u>
24	commission's determination regarding the information or the
25	referral as provided in this section, held by the commission
26	or its agents or by a Commission on Ethics and Public Trust
27	established by any county defined in s. 125.011(1), are
28	confidential and exempt from the provisions of s. 119.07(1)
29	and s. 24(a), Art. I of the State Constitution, and any
30	proceeding conducted by the commission or a Commission on
31	Ethics and Public Trust, pursuant to a complaint, information
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1	or referral as provided in this section, or preliminary
2	investigation, is exempt from the provisions of s. 286.011, s.
3	24(b), Art. I of the State Constitution, and s. 120.525, until
4	the complaint is dismissed as legally insufficient, until the
5	alleged violator requests in writing that such records and
б	proceedings be made public, <u>until the commission determines</u>
7	that it will not investigate the complaint or referral, or
8	until the commission or a Commission on Ethics and Public
9	Trust determines, based on such investigation, whether
10	probable cause exists to believe that a violation has
11	occurred. The confidentiality requirements of this section do
12	not prohibit the commission or its staff from sharing
13	investigative information with criminal investigative
14	agencies. In no event shall a complaint under this part
15	against a candidate in any general, special, or primary
16	election be filed or any intention of filing such a complaint
17	be disclosed on the day of any such election or within the 5
18	days immediately preceding the date of the election. <u>The</u>
19	confidentiality provisions of this subsection are subject to
20	the Open Government Sunset Review Act of 1995 in accordance
21	with s. 119.15, and shall stand repealed on October 2, 2010,
22	unless reviewed and saved from repeal through reenactment by
23	the Legislature.
24	Section 2. The Legislature finds that the release to
25	the public of proceedings relating to information or referrals
26	received by the Commission on Ethics relating to a possible
27	violation of the Code of Ethics for Public Officers and
28	Employees before a determination of probable cause may have an
29	adverse effect upon the person who is subject to the
30	complaint. The Legislature further finds that such
31	determination may subsequently be reversed or modified and

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1 that the commission may choose not to continue the investigation into the alleged violation. The Legislature also 2 3 finds that the exemption is of limited scope so that an 4 accused's rights are protected while, at the same time, the 5 public's right to obtain information is preserved. Therefore, 6 it is a public necessity to protect the confidentiality of 7 such information. Section 3. This act shall take effect on the same date 8 9 that Senate Bill ____ or similar legislation takes effect, if 10 such legislation is enacted in the same legislative session or an extension thereof and becomes law. 11 12 13 SENATE SUMMARY 14 15 Exempts information and referrals received by the Commission on Ethics from public-records requirements until the commission determines that it will not 16 investigate the complaint or referral. Authorizes the 17 release of such information to criminal investigative agencies. Provides for future legislative review and 18 repeal of the exemption. 19 20 21 22 23 2.4 25 26 27 28 29 30 31

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