

1                                   A bill to be entitled  
 2           An act relating to public records and public meetings;  
 3           amending s. 112.324, F.S.; expanding the exemption  
 4           from public records requirements for a written  
 5           complaint received by the Commission on Ethics of an  
 6           alleged violation of the Code of Ethics for Public  
 7           Officers and Employees, or any other alleged breach of  
 8           the public trust within the jurisdiction of the  
 9           commission, to include the commission's determination  
 10          regarding a written statement of a possible violation  
 11          of the code or other possible breach of the public  
 12          trust; expanding the exemption from public meeting  
 13          requirements for a proceeding conducted by the  
 14          commission to include proceedings conducted pursuant  
 15          to a written statement; providing for specified  
 16          duration of the exemptions; providing for future  
 17          legislative review and repeal of the exemptions;  
 18          providing a statement of public necessity; providing a  
 19          contingent effective date.

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 21   Be It Enacted by the Legislature of the State of Florida:

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 23           Section 1. Subsection (2) of section 112.324, Florida  
 24           Statutes, is amended to read:

25           112.324 Procedures on complaints of violations; public  
 26           records and meeting exemptions.—

27           (2) (a) The following items are confidential and exempt  
 28           from the provisions of s. 119.07(1) and s. 24(a), Art. I of the

29 | State Constitution:

- 30 |     1. The complaint and records relating to the complaint; ~~or~~
- 31 |     2. Records relating to any preliminary investigation; or
- 32 |     3. The commission's determination regarding a written
- 33 | statement,

34 |

35 | which are held by the commission or its agents, by a Commission

36 | on Ethics and Public Trust established by any county defined in

37 | s. 125.011(1) or by any municipality defined in s. 165.031, or

38 | by any county or municipality that has established a local

39 | investigatory process to enforce more stringent standards of

40 | conduct and disclosure requirements as provided in s. 112.326

41 | ~~are confidential and exempt from the provisions of s. 119.07(1)~~

42 | ~~and s. 24(a), Art. I of the State Constitution.~~

43 |         (b) Any proceeding conducted by the commission, a

44 | Commission on Ethics and Public Trust, or a county or

45 | municipality that has established such local investigatory

46 | process, pursuant to a complaint, statement, or preliminary

47 | investigation, is exempt from the provisions of s. 286.011, s.

48 | 24(b), Art. I of the State Constitution, and s. 120.525.

49 |         (c) The exemptions in paragraphs (a) and (b) apply until

50 | the complaint or statement is dismissed as legally insufficient,

51 | until the alleged violator requests in writing that such records

52 | and proceedings be made public, until the commission determines

53 | that it will not investigate the complaint or statement, or

54 | until the commission, a Commission on Ethics and Public Trust,

55 | or a county or municipality that has established such local

56 | investigatory process determines, based on such investigation,

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57 | whether probable cause exists to believe that a violation has  
58 | occurred. In no event shall a complaint under this part against  
59 | a candidate in any general, special, or primary election be  
60 | filed or any intention of filing such a complaint be disclosed  
61 | on the day of any such election or within the 5 days immediately  
62 | preceding the date of the election.

63 | (d) This subsection is subject to the Open Government  
64 | Sunset Review Act in accordance with s. 119.15 and shall stand  
65 | repealed on October 2, 2018 ~~October 2, 2015~~, unless reviewed and  
66 | saved from repeal through reenactment by the Legislature.

67 | Section 2. (1) The Legislature finds that it is a public  
68 | necessity that a determination of legal sufficiency to conduct  
69 | an investigation of an alleged breach of the public trust  
70 | pursuant to a written statement be made confidential and exempt  
71 | from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of  
72 | the State Constitution until the Commission on Ethics dismisses  
73 | such allegation as legally insufficient, determines that it will  
74 | not conduct an investigation, or determines, based on an  
75 | investigation, whether probable cause exists to believe that a  
76 | violation has occurred. This exemption is necessary because the  
77 | release of information that is subsequently found to be  
78 | insufficient and without legal basis could potentially be  
79 | defamatory to the individual under investigation or cause  
80 | unwarranted damage to his or her good name or reputation. For  
81 | these reasons, the Legislature finds that it is a public  
82 | necessity that investigations of an alleged breach of the public  
83 | trust made pursuant to a written statement be made confidential  
84 | and exempt from public records requirements.

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85        (2) In addition, the Legislature finds that it is a public  
86 necessity that any proceeding conducted by the Commission on  
87 Ethics pursuant to a written statement be exempt from s.  
88 286.011, Florida Statutes, and s. 24(b), Article I of the State  
89 Constitution so that the administration of such proceedings is  
90 not otherwise significantly impaired. The exemption of these  
91 proceedings from public meetings requirements minimizes the  
92 possibility of unnecessary scrutiny by the public or media of  
93 the individual under investigation and his or her family before  
94 there is a determination of probable cause. Furthermore, the  
95 Legislature has previously recognized the importance of  
96 exempting these public records and public meetings by exempting  
97 the records and meetings of the Commission on Ethics and other  
98 local commissions.

99        Section 3. This act shall take effect on the same date  
100 that HB 379 or similar legislation takes effect, if such  
101 legislation is adopted in the same legislative session, or an  
102 extension thereof and becomes law.