

By Senator Sebesta

313-789A-00

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 records and  
5           proceedings relating to information or  
6           referrals received by the Commission on Ethics  
7           relating to Ethics Code violations; providing  
8           for release of such information to criminal  
9           investigative agencies; providing for future  
10          legislative review and repeal; providing a  
11          finding of public necessity; providing an  
12          effective date.

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

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16           Section 1. Subsection (1) of section 112.324, Florida  
17 Statutes, is amended to read:

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112.324 Procedures on complaints of violations.--

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(1) Upon a written complaint executed on a form  
20 prescribed by the commission and signed under oath or  
21 affirmation by any person, the commission shall investigate  
22 any alleged violation of this part or any other alleged breach  
23 of the public trust within the jurisdiction of the commission  
24 as provided in s. 8(f), Art. II of the State Constitution in  
25 accordance with procedures set forth herein. Within 5 days  
26 after receipt of a complaint by the commission, a copy shall  
27 be transmitted to the alleged violator. All proceedings, the  
28 complaint, and other records relating to the preliminary  
29 investigation or the commission's determination, as provided  
30 herein, or as provided by a Commission on Ethics and Public  
31 Trust established by any county defined in s. 125.011(1),

1 shall be confidential and exempt from the provisions of s.  
2 119.07(1), and s. 24(a), Art. I of the State Constitution,  
3 either until the alleged violator requests in writing that  
4 such investigation and records be made public records or the  
5 preliminary investigation is completed, notwithstanding any  
6 provision of chapter 120 or s. 286.011 and s. 24(b), Art. I of  
7 the State Constitution. The confidentiality requirements of  
8 this section do not prohibit the commission or its staff from  
9 sharing investigative information with criminal investigative  
10 agencies.In no event shall a complaint under this part  
11 against a candidate in any general, special, or primary  
12 election be filed or any intention of filing such a complaint  
13 be disclosed on the day of any such election or within the 5  
14 days immediately preceding the date of the election. The  
15 confidentiality provisions of this subsection are ~~is~~ repealed  
16 October 2, 2002, and must be reviewed by the Legislature  
17 before that date in accordance with s. 119.15, the Open  
18 Government Sunset Review Act of 1995.

19 Section 2. The Legislature finds that the release to  
20 the public of records and proceedings relating to information  
21 or referrals received by the Commission on Ethics relating to  
22 a possible violation of the Code of Ethics for Public Officers  
23 and Employees prior to a probable cause determination may have  
24 an adverse effect upon the person who is subject to the  
25 complaint. The Legislature further finds that such  
26 determination may subsequently be reversed or modified and  
27 that the commission may choose not to continue the  
28 investigation into the alleged violation. The Legislature also  
29 finds that the exemption is of limited scope so that an  
30 accused's rights are protected, while at the same time, the  
31 public's right to obtain information is preserved. Therefore

1 it is a public necessity to protect the confidentiality of  
2 such information.

3 Section 3. This act shall take effect on the effective  
4 date of Senate Bill 368 or similar legislation passed during  
5 the 2000 Regular Session of the Legislature.

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8 SENATE SUMMARY

9 Provides an exemption from public records requirements  
10 for records and proceedings relating to information or  
11 referrals received by the Commission on Ethics relating  
12 to possible Ethics Code violations. Provides for release  
13 of such information to criminal investigative agencies.  
14 Provides for future review and repeal. Provides a finding  
15 of public necessity.  
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