

1 A bill to be entitled
2 An act relating to public records; creating s.
3 229.0055, F.S.; providing an exemption from
4 public-records requirements for identifying
5 information regarding applicants for the
6 position of Commissioner of Education,
7 president of a state university, or president
8 of a public community college until finalists
9 are nominated; providing for future review and
10 repeal; providing a finding of public
11 necessity; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 229.0055, Florida Statutes, is
16 created to read:

17 229.005 Certain information exempt from disclosure.--

18 (1) Information that would identify an applicant for
19 the position of:

20 (a) The Commissioner of Education and which is in the
21 possession of the Florida Board of Education,

22 (b) A president of a state university and which is in
23 the possession of the university board of trustees, or

24 (c) A president of a community college and which is in
25 the possession of a community college board of trustees

26
27 is confidential and exempt from the provisions of s. 119.07(1)
28 and s. 24(a), Art. I of the State Constitution. Upon the
29 selection of three finalists, all files, interviews, meetings,
30 appearances, and comments of the finalists, but not other
31 applicants, shall be open to the public. The records of all

1 applicants shall be open to the public three years after the
2 closing date for filing an application for the position.

3 (2) Any meeting or portion of a meeting in which
4 information that would identify an applicant under subsection
5 (1) is discussed is exempt from the provisions of s. 286.011
6 and s. 24(b), Art. I of the State Constitution, except that
7 after three finalists are selected, any meeting or portion of
8 a meeting in which one or more of the finalists are discussed
9 shall be open to the public. Tape recordings, minutes and
10 other records of applicants other than the finalists shall be
11 open three years after the closing date for filing an
12 application for the position; provided that, before the
13 records are made public, the custodian of the records relating
14 to a non-finalist candidate shall redact from such records
15 those matters that personally identify the applicant. If tape
16 recordings are requested, a redacted transcript may be
17 provided.

18 (3) This section is subject to the Open Government
19 Sunset Review Act of 1995 in accordance with s. 119.15 and is
20 repealed on October 2, 2006, unless reviewed and saved from
21 repeal through reenactment by the Legislature before that
22 date.

23 Section 2. The Legislature finds that it is a public
24 necessity that information that would identify an applicant
25 for the position of Commissioner of Education, president of a
26 state university, or president of a public community college
27 be held confidential and exempt. Disclosure of information
28 that would identify an applicant could threaten or harm an
29 applicant's current professional position if the applicant's
30 present employer were to become aware of the application. As a
31 result, an applicant could be discouraged from pursuing an

1 available position, which would reduce the size of the pool of
2 available applicants. A limitation on the number of qualified
3 applicants seeking these positions could have a significant
4 impact on the effective and efficient administration of
5 programs and services offered by these entities. Thus, the
6 harm from providing access to and disclosure of information
7 that would identify an applicant other than the finalists
8 significantly outweighs any public benefit that could be
9 derived from providing access to this information at an
10 earlier date. The Legislature also notes that, once the
11 finalists have been selected, it is necessary for a full and
12 adequate review and comparison of the finalists, that all
13 records and meetings related to one or more of the finalists
14 must be open to the public. The Legislature further finds
15 that, to ensure that other applicants who are not finalists
16 are given adequate protection while still providing public
17 oversight over the entire selection process, a three-year
18 period of closure of records and tape recordings and other
19 records of meetings, is sufficient to protect applicants and
20 to permit public oversight.

21 Section 3. This act shall take effect on the same date
22 as Committee Substitute for Senate Bill 2108 or similar
23 legislation relating to education governance, if such
24 legislation is adopted during the 2001 Regular Session or an
25 extension thereof and becomes law.

26
27
28
29
30
31