

By Senator Saunders

25-38-02

1 A bill to be entitled
2 An act relating to open government; amending s.
3 112.324, F.S.; providing an exemption from
4 public records and public meetings requirements
5 for records and proceedings relating to
6 information or referrals received by the
7 Commission on Ethics relating to Ethics Code
8 violations; providing for release of such
9 information to criminal investigative agencies;
10 providing for future legislative review and
11 repeal; providing a finding of public
12 necessity; providing an 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:

18 112.324 Procedures on complaints of violations.--
19 (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, 2007 ~~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 ____ or similar legislation passed during
5 the 2002 Regular Session of the Legislature.

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8 SENATE SUMMARY

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