Florida Senate - 2003

By Senator Lynn

7-1115-03 A bill to be entitled 1 2 An act relating to public records; creating s. 44.1026, F.S.; providing that oral or written 3 4 communications or documents in a presuit or voluntary mediation proceeding are confidential 5 and exempt from public disclosure under the 6 7 public-records law; authorizing disclosure of communications and documents upon consent of 8 9 all participants to the mediation; providing an exception for executed settlements and certain 10 11 communications; providing for future 12 legislative review and repeal; providing a finding of public necessity; providing a 13 contingent effective date. 14 15 16 Be It Enacted by the Legislature of the State of Florida: 17 Section 1. Section 44.1026, Florida Statutes, is 18 19 created to read: 20 44.1026 Presuit and voluntary mediation; public 21 records exemption. -- All oral or written communications or 22 documents, including written documents of the mediator, in a 23 presuit or voluntary mediation proceeding are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State 24 25 Constitution. Such communications and documents, however, may 26 be disclosed upon the consent of all participants to the 27 presuit mediation or parties to the voluntary mediation. 28 Executed settlement agreements or communications as provided 29 in s. 44.1025(3) are neither confidential nor exempt. This 30 section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on 31

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1 October 2, 2008, unless reviewed and saved from repeal through 2 reenactment by the Legislature. 3 Section 2. The Legislature finds that the 4 confidentiality and public-records exemption for all oral and 5 written communications or documents in a presuit or voluntary б mediation is a public necessity in order to promote the 7 effective and efficient use of mediation and minimize court involvement and intervention. Confidentiality enhances candor 8 9 and confidence in the mediation process such that participants 10 can develop creative solutions to the issues in dispute. The Legislature also finds that the public policy provided for in 11 the promotion and use of presuit and voluntary mediations will 12 be served by the confidentiality and public-records exemption 13 14 of the communications and documents made or created during the 15 mediation process. Section 3. This act shall take effect July 1, 2003, 16 but it shall not take effect unless SB ____, relating to 17 presuit and voluntary mediation or similar legislation, is 18 19 enacted at the 2003 Regular Session or an extension thereof. 20 21 22 SENATE SUMMARY Provides an exemption from public-records requirements for oral or written communications or documents in a presuit or voluntary mediation proceeding. Provides certain exceptions. Provides for future legislative review and repeal under the Open Government Sunset Review Act of 1995. Provides a finding of public necessity. 23 24 25 26 27 28 29 30 31

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