

By Senator Saunders

37-78-04

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 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 (2) of section 112.324, Florida
17 Statutes, is amended to read:

18 112.324 Procedures on complaints of violations; public
19 records and meeting exemptions.--

20 (2) All proceedings, the complaint, and other records
21 relating to the complaint or to any preliminary investigation
22 held by the commission, ~~or its agents, or by~~ a Commission on
23 Ethics and Public Trust established by any county defined in
24 s. 125.011(1), or the commission's determination, are
25 confidential and exempt from the provisions of s. 119.07(1)
26 and s. 24(a), Art. I of the State Constitution, and any
27 proceeding conducted by the commission or a Commission on
28 Ethics and Public Trust, pursuant to a complaint or
29 preliminary investigation, is exempt from the provisions of s.
30 286.011, s. 24(b), Art. I of the State Constitution, and s.
31 120.525, until the complaint is dismissed as legally

1 insufficient, until the alleged violator requests in writing
2 that such records and proceedings be made public, or until the
3 commission or a Commission on Ethics and Public Trust
4 determines, based on such investigation, whether probable
5 cause exists to believe that a violation has occurred. The
6 confidentiality requirements of this section do not prohibit
7 the commission or its staff from sharing investigative
8 information with criminal investigative agencies.~~In no event~~
9 ~~shall~~ A complaint, information, or referral under this part
10 against a candidate in any general, special, or primary
11 election may not be filed nor may ~~or~~ any intention of filing
12 such a complaint be disclosed on the day of any such election
13 or within the 5 days immediately preceding the date of the
14 election. The confidentiality provisions of this subsection
15 are subject to the Open Government Sunset Review Act of 1995,
16 in accordance with s. 119.15, and shall stand repealed on
17 October 2, 2009, unless reviewed and saved from repeal through
18 reenactment by the Legislature.

19 Section 2. The Legislature finds that the release to
20 the public of proceedings relating to information or referrals
21 received by the Commission on Ethics relating to a possible
22 violation of the Code of Ethics for Public Officers and
23 Employees prior to a probable cause determination may have an
24 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 same date
4 that Senate Bill ____ or similar legislation takes effect, if
5 such legislation is enacted in the same legislative session or
6 an extension thereof.

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9 SENATE SUMMARY

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