

HB 1973

2004

A bill to be entitled

An act relating to public records exemptions; creating s. 106.0706, F.S.; creating an exemption from public records requirements for all user identifications and passwords held by the Department of State pursuant to s. 106.0705, F.S.; creating an exemption from public records requirements for records, reports, and files stored in the electronic filing system pursuant to s. 106.0705, F.S.; providing for future review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 106.0706, Florida Statutes, is created to read:

106.0706 Electronic filing of campaign treasurer's reports; confidentiality of information and draft reports.--All user identifications and passwords held by the Department of State pursuant to s. 106.0705 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. All records, reports, and files stored in the electronic filing system pursuant to s. 106.0705 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the report has been submitted as a filed report. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

HB 1973

2004

30 Section 2. (1) The Legislature finds that it is a public
31 necessity to exempt from public records requirements all user
32 identifications and passwords held by the Department of State
33 pursuant to s. 106.0705, Florida Statutes. The public records
34 exemption is necessary to ensure accountability for the filing
35 of false or inaccurate information. Under current law, certain
36 individuals, typically the candidate and campaign treasurer or
37 the chair of a committee or group and its treasurer, must
38 certify and bear responsibility for the correctness of each
39 campaign finance report filed with the Division of Elections
40 under pain of personal criminal prosecution or administrative
41 fine. The law uses the physical signatures of such individuals
42 on the paper campaign finance reports as evidence of attestation
43 to the veracity of the report. Electronic reporting eliminates
44 the evidentiary advantages of hard-copy signatures by persons
45 submitting reports, so the provisions of law creating the
46 electronic filing system provide for the issuance of secure
47 sign-on information to the individuals designated and provides
48 that such individuals are responsible for all filing using such
49 sign-on credentials unless they have notified the division that
50 their credentials have been compromised. Without a public
51 records exemption for such user information, there would be no
52 accountability for campaign finance reporting.

53 (2) In addition, the public records exemption is necessary
54 to protect against the unwarranted submission of false or
55 erroneous campaign finance data. Limiting access to the
56 electronic filing system will prevent unauthorized users from
57 changing or submitting false or inaccurate information that
58 could be damaging to the reporting individual or group and

HB 1973

2004

59 result in charges being brought against the individuals
60 accountable by statute for the veracity of the information.

61 (3) The Legislature also finds that it is a public
62 necessity to exempt from public records requirements all
63 records, reports, and files created from information entered
64 into the electronic filing system by individuals and groups
65 subject to electronic campaign finance reporting requirements
66 until such time as a final report is due pursuant to law. It is
67 anticipated that best practices would encourage periodic and
68 timely updates to the draft report throughout the covered
69 reporting period, and this exemption would allow reporting
70 individuals and groups adequate time to enter all the
71 information. Campaign finance reports can contain hundreds or
72 even thousands of individual entries for items such as dates,
73 names, amounts of contributions, and expenditures. It is simply
74 not technologically or practically feasible to require all this
75 information to be manually input on the designated statutory due
76 date. The public records exemption will allow reporting
77 individuals and groups to update the information in their draft
78 reports throughout the reporting period and subject the reports
79 to internal audits to check for errors prior to submission. The
80 updated report for the entire reporting period can then be
81 submitted as required by law.

82 (4) The public records exemption is also essential because
83 it protects reporting individuals and groups from exposing their
84 campaign finance strategies to opponents who could use the
85 reported information to their advantage. For example, a large
86 inflow of contributions to a candidate's campaign during a
87 reporting period could indicate that the candidate is

HB 1973

2004

88 positioning himself or herself for a large media buy to run
89 political advertisements. An opponent of the candidate could
90 frustrate this intention by purchasing desirable media slots
91 first.

92 (5) Finally, this public records exemption will actually
93 accelerate the public's access to this information compared with
94 current law, which allows for the filing of paper reports by
95 mail on the designated due date and results in both mailing and
96 data entry delays in processing the information to the Internet.
97 Under current law, in many cases, crucial campaign finance
98 information contained in reports due on the 4th day before an
99 election is never disclosed to the public until after the
100 election is over. The electronic campaign filing system, with
101 the public records exemption in place, will eliminate these
102 delays and provide this crucial data to the electorate before
103 election day.

104 Section 3. This act shall take effect January 1, 2005, if
105 House Bill 1971 or similar legislation creating section
106 106.0705, Florida Statutes, to provide for electronic filing of
107 campaign treasurer's reports, is adopted in the same legislative
108 session or an extension thereof and becomes law.