

By Senator Fasano

11-1569-04

1                                   A bill to be entitled  
2           An act relating to public records and meetings;  
3           creating an exemption from public records and  
4           public meetings requirements for certain  
5           information held by the Governor's Advisory  
6           Council on Base Realignment and Closure or the  
7           Office of Tourism, Trade, and Economic  
8           Development; creating an exemption from public  
9           records requirements for certain specified  
10          documents and materials received or developed  
11          by sources in service to the Governor's  
12          Advisory Council on Base Realignment and  
13          Closure; creating an exemption from public  
14          meetings requirements for meetings of the  
15          Governor's Advisory Council on Base Realignment  
16          and Closure if exempt documents or records are  
17          presented or discussed; providing access to  
18          exempt or confidential information under  
19          specified circumstances; providing a penalty;  
20          providing for future repeal and legislative  
21          review under the Open Government Sunset Review  
22          Act of 1995; providing a statement of public  
23          necessity; providing an effective date.

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

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27           Section 1. Exemptions from public records and meetings  
28 requirements; Governor's Advisory Council on Base Realignment  
29 and Closure and the Office of Tourism, Trade, and Economic  
30 Development.--

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1           (1) The following information held by the Governor's  
2 Advisory Council on Base Realignment and Closure or the Office  
3 of Tourism, Trade, and Economic Development is confidential  
4 and exempt from Section 24(a), Article I of the State  
5 Constitution and section 119.07(1), Florida Statutes:

6           (a) Materials that relate to strengths or weaknesses  
7 of military installations or military missions in this state  
8 relative to the selection criteria of the United States  
9 Department of Defense for base realignment and closure.

10           (b) Materials that relate to the vulnerability or  
11 immunity of military installations or military missions in  
12 other states or territories with respect to closure or  
13 realignment.

14           (c) Materials that relate to the state's strategy to  
15 retain its military installations as a response to the federal  
16 authorization of realignments and closures of military  
17 installations in 2005.

18           (2) That portion of a meeting of the Governor's  
19 Advisory Council on Base Realignment and Closure, including a  
20 committee or subcommittee comprised of members of the  
21 Governor's Advisory Council on Base Realignment and Closure,  
22 at which information is presented or discussed which is  
23 confidential or exempt under subsection (1) is closed to the  
24 public and exempt from Section 24(b), Article I of the State  
25 Constitution and section 286.011, Florida Statutes.

26           (3) Any records generated during those portions of the  
27 meetings which are closed to the public under subsection (2),  
28 such as minutes, tape recordings, videotapes, transcriptions,  
29 or notes are confidential and exempt from Section 24(a),  
30 Article I of the State Constitution and section 119.07(1),  
31 Florida Statutes.

1           (4) Public employees shall be permitted to inspect and  
2 copy records or information that is made exempt and  
3 confidential under this section exclusively for the  
4 performance of their public duties. Public employees receiving  
5 this exempt and confidential information must maintain the  
6 confidentiality of the information. Any such public employee  
7 who receives confidential information and violates this  
8 subsection commits a misdemeanor of the first degree,  
9 punishable as provided in section 775.082 or section 775.083,  
10 Florida Statutes.

11           (5) This section is subject to the Open Government  
12 Sunset Review Act of 1995 in accordance with section 119.15,  
13 Florida Statutes, and shall stand repealed on October 2, 2009,  
14 unless reviewed and saved from repeal through reenactment by  
15 the Legislature.

16           Section 2. (1) The Legislature finds that it is a  
17 public necessity that certain records held by the Governor's  
18 Advisory Council on Base Realignment and Closure or the Office  
19 of Tourism, Trade, and Economic Development which contain  
20 information concerning military base realignment and closure  
21 be made confidential and exempt from public disclosure. The  
22 Legislature finds that the national defense and the economic  
23 development of the state are greatly enhanced by the retention  
24 and growth of military installations and defense-related  
25 industries that are located in the state.

26           (2) The Legislature also finds that it is a public  
27 necessity to make exempt and confidential agreements and  
28 proposals to relocate or realign military units and missions  
29 from other states and territories or relocate or realign  
30 military units and mission within the state that enhance the  
31 military value of the military presence in the state until

1 after the conclusion of the base realignment and closure  
2 process, which concludes with the termination of the Base  
3 Realignment and Closure Commission on April 15, 2006. If these  
4 records are not protected during the base realignment and  
5 closure process, the state would be at a competitive  
6 disadvantage in competing for those military units and  
7 missions. If such information is not exempt from disclosure  
8 and such meetings are not closed, critical confidential  
9 information concerning strategic plans regarding base  
10 realignment and closure would be revealed, making it  
11 exceptionally difficult, if not impossible, for this state to  
12 effectively compete against other states and territories whose  
13 records and meetings are not required to be open to the  
14 public. The exemption allows this state the ability to  
15 effectively and efficiently advocate for the retention of its  
16 military bases.

17 (3) Failure to protect such information would inhibit  
18 efforts by the Governor's Council on Base Realignment and  
19 Closure because other persons, states, the Federal Government,  
20 or nations could be unwilling to share information if it could  
21 be released. Without protecting such information, this state  
22 would be on an unequal standing with other states and  
23 territories that are not required to disclose confidential and  
24 exempt information, and thus operate to the economic detriment  
25 of the state.

26 (4) Similarly, the Legislature finds that the ability  
27 of the Governor's Advisory Council on Base Realignment and  
28 Closure to meet its obligations to protect all military bases  
29 and missions in this state from closure or realignment will be  
30 impaired significantly if meetings held by the Governor's  
31 Advisory Council on Base Realignment and Closure or the Office

1 of Tourism, Trade, and Economic Development at which the  
2 records and information made confidential and exempt from  
3 public disclosure by this act are discussed are not closed.  
4 Failure to protect that portion of meetings during which such  
5 confidential records and information are discussed would  
6 defeat the exemption created by this act. In addition, the  
7 Legislature finds that records generated during those portions  
8 of meetings which are closed, and the minutes, tape  
9 recordings, videotapes, transcriptions, or notes, must be  
10 protected for the same reasons that those portions of the  
11 meetings are closed.

12 (5) The Legislature also finds that, given the size of  
13 the economic contribution of its military installations and  
14 defense-related industries, the state has a substantial  
15 financial interest in the retention of its military bases.

16 Section 3. This act shall take effect October 1, 2004.

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SENATE SUMMARY

Creates an exemption from public-records requirements for certain information held by the Governor's Advisory Council on Base Realignment and Closure or the Office of Tourism, Trade, and Economic Development. Creates an exemption from public meetings requirements for meetings of the Governor's Advisory Council on Base Realignment and Closure if exempt documents or records are presented or discussed. Provides access to exempt or confidential information under specified circumstances. Provides a penalty. Provides for future legislative review and repeal of exemption.