

By the Committee on Governmental Oversight and Productivity;
and Senator Fasano

302-2328-04

1 A bill to be entitled

2 An act relating to public records and public

3 meetings; creating s. 288.982, F.S.; creating

4 an exemption from public records requirements

5 for specified records relating to military

6 installations and military missions subject to

7 the United States Department of Defense Base

8 Realignment and Closure 2005 process and

9 agreements and proposals to relocate or realign

10 military units and missions which are held by

11 the Governor's Advisory Council on Base

12 Realignment and Closure, Enterprise Florida,

13 Inc., or the Office of Tourism, Trade, and

14 Economic Development; creating an exemption

15 from public meetings requirements for meetings

16 of the advisory council, or a committee or

17 subcommittee of the advisory council, at which

18 exempt information is presented or discussed;

19 creating an exemption from public records

20 requirements for records generated during

21 meetings of the advisory council, or a

22 committee or subcommittee of the advisory

23 council or office, which are closed to the

24 public; providing a penalty; providing for

25 repeal of the act; providing access to

26 confidential and exempt records upon repeal of

27 the act; providing a statement of public

28 necessity; providing an effective date.

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

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1 Section 1. Section 288.982, Florida Statutes, is
2 created to read:

3 288.982 Exemptions from public records and meeting
4 requirements; Governor's Advisory Council on Base Realignment
5 and Closure, Enterprise Florida, Inc., and the Office of
6 Tourism, Trade, and Economic Development; United States
7 Department of Defense Base Realignment and Closure 2005
8 process.--

9 (1) The following records held by the Governor's
10 Advisory Council on Base Realignment and Closure, Enterprise
11 Florida, Inc., or the Office of Tourism, Trade, and Economic
12 Development are confidential and exempt from s. 119.07(1) and
13 s. 24(a), Art. I of the State Constitution:

14 (a) That portion of a record which relates to
15 strengths and weakness of military installations or military
16 missions in Florida relative to the selection criteria for the
17 realignment and closure of military bases and missions under
18 the United States Department of Defense Base Realignment and
19 Closure 2005 process.

20 (b) That portion of a record which relates to
21 strengths and weaknesses of military installations or military
22 missions in other states or territories and the vulnerability
23 of such installations or missions to base realignment or
24 closure under the United States Department of Defense Base
25 Realignment and Closure 2005 process and any agreements or
26 proposals to relocate or realign military units and missions
27 from other states or territories.

28 (c) That portion of a record which relates to the
29 state's strategy to retain its military bases during the
30 United States Department of Defense Base Realignment and
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1 Closure 2005 process and any agreements or proposals to
2 relocate or realign military units and missions.

3 (2) Meetings or portions of meetings of the Governor's
4 Advisory Council on Base Realignment and Closure, or a
5 committee or subcommittee of the advisory council, at which
6 records are presented or discussed which are confidential and
7 exempt under subsection (1) are exempt from s. 286.011 and s.
8 24(b), Art. I of the State Constitution.

9 (3) Any records generated during those portions of
10 meetings which are closed to the public under subsection (2),
11 including, but not limited to, minutes, tape recording,
12 videotapes, transcriptions, or notes, are confidential and
13 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
14 Constitution.

15 (4) Any person who willfully and knowingly violates
16 this section commits a misdemeanor of the first degree,
17 punishable as provided in s. 775.082 or s. 775.083.

18 (5) On May 31, 2006, this section shall stand
19 repealed, and the records made confidential and exempt shall
20 be available for public inspection and copying.

21 Section 2. The Legislature finds that it is a public
22 necessity that certain records containing military base
23 realignment and closure information held by the Governor's
24 Advisory Council on Base Realignment and Closure, Enterprise
25 Florida, Inc., and the Office of Tourism, Trade, and Economic
26 Development be made confidential and exempt from public
27 disclosure. The Legislature finds that the national defense
28 and the economic development of the state are greatly enhanced
29 by the retention of growth of military installations and
30 defense-related industries located in the state. The
31 Legislature also finds that, given the size of the economic

1 contribution of its military installations and defense-related
2 industries, the state has a substantial financial interest in
3 the retention of its military bases. Consequently, the
4 Legislature finds that if such records were not held
5 confidential and exempt from public disclosure then the State
6 of Florida would be placed at a competitive disadvantage when
7 competing to keep the state's military installations open and
8 to promote the creation of more military installations within
9 the state. The Legislature further finds that it is a public
10 necessity to make confidential and exempt agreements and
11 proposals to relocate or realign military units and missions
12 from other states and territories and agreements and proposals
13 to relocate or realign military units and missions within this
14 state until the United States Department of Defense Base
15 Realignment and Closure 2005 process concludes on April 15,
16 2006. If such records were not protected during the base
17 realignment and closure process, the state would be at a
18 disadvantage in competing for military units and missions. If
19 such information is not made confidential and exempt, critical
20 information regarding strategic plans with respect to base
21 realignments and closure would be revealed, making it
22 exceptionally difficult, if not impossible, for Florida to
23 effectively compete against other states and territories whose
24 records are not required to be open to the public. The
25 exemption provided by this act allows Florida to effectively
26 and efficiently advocate for the retention of its military
27 bases. Failure to protect such records would inhibit efforts
28 by the Governor's Advisory Council on Base Realignment and
29 Closure because other persons or states, the Federal
30 Government, or other nations could be unwilling to share
31 information if such information could be released. Without

1 protecting such information, Florida would be on an unequal
2 footing with other states and territories that are not
3 required to disclose confidential and exempt information, and
4 such a lack of confidentiality would operate to the economic
5 detriment of the state. Similarly, the Legislature finds that
6 the ability of the Governor's Advisory Council on Base
7 Realignment and Closure to meet its obligations to protect all
8 military bases and missions in Florida from closure or
9 realignment will be impaired significantly if meetings or
10 portions of meetings held by the advisory council, or a
11 committee or subcommittee of the advisory council, at which
12 records made confidential and exempt from public disclosure
13 are discussed are not exempt from public meetings
14 requirements. Failure to protect meetings or portions of
15 meetings during which such confidential and exempt records are
16 discussed would defeat the purpose of the public records
17 exemption created by this act. Further, the Legislature finds
18 that records generated during those portions of meetings that
19 are closed, including the minutes, tape recordings,
20 videotapes, transcriptions, or notes from such meetings, must
21 be protected for the same reasons that justify the closing of
22 those meetings.

23 Section 3. This act shall take effect upon becoming a
24 law.

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26 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
27 COMMITTEE SUBSTITUTE FOR
28 SB 2496

29 Narrows and further refines the exemption.

30 Removes review under the Open Government Sunset Review Act of
31 1995 and establishes only a repeal date.