

By the Committee on Ethics and Elections; and Senator Cowin

313-2470-04

1 A bill to be entitled
2 An act relating to public records; creating s.
3 106.0706, F.S.; creating an exemption from
4 public-records requirements for user
5 identification, passwords, and similar data
6 used in making electronic filings of campaign
7 finance reports and for preliminary information
8 stored in the electronic filing system and
9 related to a filing that has not yet been
10 submitted as a filed report; providing for
11 future legislative review and repeal; providing
12 findings of public necessity; providing an
13 effective date.

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

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

19 106.0706 Electronic filing of campaign finance
20 reports; confidentiality of information and draft
21 reports.--All user identifications, passwords, and other
22 identifying information used by the Department of State for
23 limiting access to the electronic filing system for campaign
24 finance reports established under s. 106.0705 to authorized
25 users of the system are confidential and exempt from s.
26 119.07(1) and s. 24(a), Art. I of the State Constitution. In
27 addition, all records, reports, and files stored in the
28 electronic filing system related to a filing pursuant to s.
29 106.0705 are exempt from public inspection until such time as
30 the report has been submitted as a filed report. This section
31 is subject to the Open Government Sunset Review Act of 1995 in

1 accordance with s. 119.15 and shall stand repealed on October
2 2, 2009, unless reviewed and saved from repeal through
3 reenactment by the Legislature.

4 Section 2. (1) The Legislature finds that it is a
5 public necessity to exempt from public records requirements
6 all identification and information required to maintain the
7 security of information filed or received through the
8 electronic filing system for campaign finance reports
9 established under section 106.0705, Florida Statutes, as
10 created in Senate Bill 3004 or similar legislation. The
11 public-records exemption is necessary to ensure accountability
12 for the filing of false or inaccurate information. Under
13 current law, certain individuals, typically the candidate and
14 campaign treasurer or the chair of a committee or group and
15 its treasurer, must certify and bear responsibility for the
16 correctness of each campaign finance report filed with the
17 Division of Elections under pain of personal criminal
18 prosecution or administrative fine. The law uses the physical
19 signatures of such individuals on the paper campaign finance
20 reports as evidence of attestation to the veracity of the
21 report. Electronic reporting eliminates the evidentiary
22 advantages of hard-copy signatures by persons submitting
23 reports, so the provisions of law creating the electronic
24 filing system in Senate Bill 3004 or similar legislation
25 provide for the issuance of secure "sign-on" information to
26 the individuals designated, and provides that such individuals
27 are responsible for all filing using such "sign-on"
28 credentials unless they have notified the division that their
29 credentials have been compromised. Without a public-records
30 exemption for this information, there would be no
31 accountability for campaign finance reporting.

1 (2) In addition, the public-records exemption is
2 necessary to protect against the unwarranted submission of
3 false or erroneous campaign finance data. Limiting access to
4 the electronic filing system will prevent unauthorized users
5 from changing or submitting false or inaccurate information
6 that could be damaging to the reporting individual or group
7 and result in charges being brought against the individuals
8 accountable by statute for the veracity of the information.

9 (3) The Legislature also finds that it is a public
10 necessity to exempt from public records all records, reports,
11 and files created from information entered into the electronic
12 filing system by individuals and groups subject to electronic
13 campaign finance reporting requirements until such time as a
14 final report is due pursuant to law. It is anticipated that
15 best practices would encourage periodic and timely updates to
16 the draft report throughout the covered reporting period and
17 this exemption would allow reporting individuals and groups
18 adequate time to enter all the information. Campaign finance
19 reports can contain hundreds or even thousands of individual
20 entries for items such as dates, names, amounts of
21 contributions, and expenditures. It is simply not
22 technologically or practically feasible to require all this
23 information to be manually input on the designated statutory
24 due date. The public-records exemption will allow reporting
25 individuals and groups to update the information in their
26 draft reports throughout the reporting period and subject the
27 reports to internal audits to check for errors prior to
28 submission. The updated report for the entire reporting period
29 can then be submitted as required by law.

30 (4) The public-records exemption is also essential
31 because it protects reporting individuals and groups from

1 exposing their campaign finance strategies to opponents who
2 could use the reported information to their advantage. For
3 example, a large inflow of contributions to a candidate's
4 campaign during a reporting period could indicate that the
5 candidate is positioning himself or herself for a large media
6 buy to run political advertisements. An opponent of the
7 candidate could frustrate this intention by purchasing
8 desirable media slots first.

9 (5) Finally, this public-records exemption, as
10 written, will actually accelerate the public's access to this
11 information compared with current law, which allows for the
12 filing of paper reports by mail on the designated due date and
13 results in both mailing and data entry delays in processing
14 the information to the Internet. Under current law, in many
15 cases, crucial campaign finance information contained in
16 reports due on the 4th day before an election is never
17 disclosed to the public until after the election is over. The
18 electronic campaign filing system, with the public-records
19 exemption in place, will eliminate these delays and provide
20 this crucial data to the electorate before election day.

21 Section 3. This act shall take effect upon becoming a
22 law if CS for Senate Bill 3004, or similar legislation
23 creating section 106.0705, Florida Statutes, to provide for
24 electronic filing of campaign treasurer's reports, is adopted
25 in the same legislative session or an extension thereof and
26 becomes law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 3006

The committee substitute differs from the original bill in that it contains a much more detailed Statement of Public Necessity.