

By the Committees on Governmental Oversight and Productivity;
Ethics and Elections; and Senator Cowin

302-2638-04

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 and passwords held by the
6 Department of State pursuant to s. 106.0705,
7 F.S.; creating an exemption from public records
8 requirements for records, reports, and files
9 stored in the electronic filing system pursuant
10 to s. 106.0705, F.S.; providing for expiration
11 of the exemption; providing for future
12 legislative review and repeal; providing
13 findings of public necessity; providing an
14 effective date.

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

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18 Section 1. Section 106.0706, Florida Statutes, is
19 created to read:
20 106.0706 Electronic filing of campaign finance
21 reports; confidentiality of information and draft
22 reports.--All user identifications and passwords held by the
23 Department of State pursuant to s. 106.0705 are confidential
24 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
25 Constitution. All records, reports, and files stored in the
26 electronic filing system pursuant to s. 106.0705 are exempt
27 from s. 119.07(1) and s. 24(a), Art. I of the State
28 Constitution until such time as the report has been submitted
29 as a filed report. This section is subject to the Open
30 Government Sunset Review Act of 1995 in accordance with s.
31 119.15 and shall stand repealed on October 2, 2009, unless

1 reviewed and saved from repeal through reenactment by the
2 Legislature.

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

28 (2) In addition, the public-records exemption is
29 necessary to protect against the unwarranted submission of
30 false or erroneous campaign finance data. Limiting access to
31 the electronic filing system will prevent unauthorized users

1 from changing or submitting false or inaccurate information
2 that could be damaging to the reporting individual or group
3 and result in charges being brought against the individuals
4 accountable by statute for the veracity of the information.

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

26 (4) The public-records exemption is also essential
27 because it protects reporting individuals and groups from
28 exposing their campaign finance strategies to opponents who
29 could use the reported information to their advantage. For
30 example, a large inflow of contributions to a candidate's
31 campaign during a reporting period could indicate that the

1 candidate is positioning himself or herself for a large media
2 buy to run political advertisements. An opponent of the
3 candidate could frustrate this intention by purchasing
4 desirable media slots first.

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

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

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24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
25 COMMITTEE SUBSTITUTE FOR
26 CS/SB 3006

27 Narrows the exemption by eliminating "other personal
28 identifying information."

29 Makes confidential and exempt user identifications and
passwords held by the department.

30 Records, reports, and files stored in the electronic filing
31 system pursuant to s. 106.0705 remain exempt until the time
the report is submitted as final.