

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 amending s. 11.0431, F.S.; creating an exemption from
 4 public records requirements for specified user
 5 identifications and passwords held by the Division of
 6 Legislative Information Services; creating an exemption
 7 from public records requirements for draft lobbying
 8 activity reports and files stored in a specified
 9 electronic filing system; providing for limited duration
 10 of the exemption; creating s. 112.32156, F.S.; creating an
 11 exemption from public records requirements for specified
 12 user identifications and passwords held by the Commission
 13 on Ethics; creating an exemption from public records
 14 requirements for draft reports and files stored in a
 15 specified electronic filing system; providing for limited
 16 duration of the exemption; providing for review and
 17 repeal; providing a statement of public necessity;
 18 providing a contingent effective date.

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

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 22 Section 1. Paragraphs (j) and (k) are added to subsection
 23 (2) of section 11.0431, Florida Statutes, to read:

24 11.0431 Legislative records; intent of legislation;
 25 exemption from public disclosure.--

26 (2) The following public records are exempt from
 27 inspection and copying:

28 (j) All user identifications and passwords held by the

29 Division of Legislative Information Services pursuant to s.
 30 11.0455.

31 (k) All draft lobbying activity reports and files stored
 32 in the electronic filing system pursuant to s. 11.0455, until
 33 such time as the report has been submitted as filed.

34 Section 2. Section 112.32156, Florida Statutes, is created
 35 to read:

36 112.32156 Electronic filing of lobbying activity reports;
 37 confidentiality of information and draft reports.--

38 (1) All user identifications and passwords held by the
 39 commission pursuant to s. 112.32155 are confidential and exempt
 40 from s. 119.07(1) and s. 24(a), Art. I of the State
 41 Constitution. All draft reports and files stored in the
 42 electronic filing system pursuant to s. 112.32155 are exempt
 43 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 44 until the report has been submitted as a filed report.

45 (2) Subsection (1) is subject to the Open Government
 46 Sunset Review Act of 1995 in accordance with s. 119.15 and shall
 47 stand repealed on October 2, 2010, unless reviewed and saved
 48 from repeal through reenactment by the Legislature.

49 Section 3. (1) The Legislature finds that it is a public
 50 necessity that all user identifications and passwords held by
 51 the Division of Legislative Information Services pursuant to s.
 52 11.0455, Florida Statutes, and by the Commission on Ethics
 53 pursuant to s. 112.32155, Florida Statutes, be held confidential
 54 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 55 Constitution. The public records exemption is necessary to
 56 ensure accountability for the filing of false or inaccurate

57 information. Under current law, the lobbyist, or the designated
58 lobbyist and principal, must certify and bear responsibility for
59 the correctness of each expenditure report filed with the
60 Division of Legislative Information Services and the Commission
61 on Ethics or be subject to a penalty or fine. The law uses the
62 physical signatures of such individuals on the paper reports as
63 evidence of attestation to the veracity of the report.
64 Electronic reporting eliminates the evidentiary advantages of
65 hard-copy signatures by persons submitting reports, so the
66 provisions of law creating the electronic filing system provide
67 for the issuance of secure "sign-on" information to the
68 individuals designated and provides that such individuals are
69 responsible for all filing using such "sign-on" credentials
70 unless they have notified the division or commission, as
71 applicable, that their credentials have been compromised.
72 Without a public records exemption for this information, there
73 would be no accountability for lobbying activity reporting. In
74 addition, the public records exemption is necessary to protect
75 against the unwarranted submission of false or erroneous
76 lobbying activity data. Limiting access to the electronic filing
77 system will prevent unauthorized users from changing or
78 submitting false or inaccurate information that could be
79 damaging to the reporting persons and result in fines and
80 penalties being levied against the persons accountable by
81 statute for the veracity of the information.

82 (2) The Legislature finds that it is a public necessity
83 that draft lobbying activity reports and files stored in the
84 specified electronic filing system pursuant to s. 11.0455,

85 Florida Statutes, and all draft reports and files stored in the
86 electronic filing system pursuant to s. 112.32155, Florida
87 Statutes, be held confidential and exempt from s. 119.07(1) and
88 s. 24(a), Art. I of the State Constitution until such time as
89 the report has been submitted as filed. The public records
90 exemption for draft lobbying activity reports and files will
91 allow all lobbyists to update reports and subject the reports to
92 internal verifications to check for errors prior to submissions.
93 The exemption will also provide each principal the opportunity
94 to review and verify the activity report of his or her
95 designated lobbyist, especially lobbying expenditures made
96 directly by the principal, for which the principal is liable.
97 Principals are deemed to certify the accuracy of such
98 expenditures submitted by operation of law pursuant to ss.
99 11.0455 and 112.32155, Florida Statutes, as applicable. The
100 Legislature also finds that this public records exemption will
101 accelerate the public's access to this information compared with
102 current law which allows for the filing of paper reports by mail
103 on the designated due date and may result in both mailing and
104 data entry delays in making the information available on the
105 Internet website.

106 Section 4. This act shall take effect on the same date
107 that HB 1849 or similar legislation creating ss. 11.0455 and
108 112.32155, Florida Statutes, to provide for electronic filing of
109 lobbying activity reports, takes effect, if such legislation is
110 adopted in the same legislative session or an extension thereof
111 and becomes law.