

By the Committee on Community Affairs; and Senator Sebesta

578-2160-05

1 A bill to be entitled

2 An act relating to public-records and

3 public-meetings exemptions; amending s.

4 112.324, F.S.; providing an exemption from

5 public-records requirements for a complaint of

6 an alleged violation of part III of chapter

7 112, F.S., the Code of Ethics for Public

8 Officers and Employees, or any other alleged

9 breach of the public trust within the

10 jurisdiction of a Commission on Ethics and

11 Public Trust established by a municipality and

12 records relating to such complaint or to any

13 preliminary investigation held by the

14 commission; providing an exemption from public-

15 meetings requirements for any proceeding

16 conducted by the commission pursuant to such

17 complaint or preliminary investigation;

18 providing conditions for termination of the

19 exemptions; providing for review and repeal

20 under the Open Government Sunset Review Act;

21 providing a statement of public necessity;

22 providing an effective date.

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

26 Section 1. Subsection (2) of section 112.324, Florida
27 Statutes, is amended to read:

28 112.324 Procedures on complaints of violations; public
29 records and meeting exemptions.--

30 (2)(a) The complaint and records relating to the
31 complaint or to any preliminary investigation held by the

1 | commission or its agents or by a Commission on Ethics and
2 | Public Trust established by any county defined in s.
3 | ~~125.011(1) or by any municipality defined in s. 165.031~~ are
4 | confidential and exempt from the provisions of s. 119.07(1)
5 | and s. 24(a), Art. I of the State Constitution, and any
6 | proceeding conducted by the commission or a Commission on
7 | Ethics and Public Trust, pursuant to a complaint or
8 | preliminary investigation, is exempt from the provisions of s.
9 | 286.011, s. 24(b), Art. I of the State Constitution, and s.
10 | 120.525, until the complaint is dismissed as legally
11 | insufficient, until the alleged violator requests in writing
12 | that such records and proceedings be made public, or until the
13 | commission or a Commission on Ethics and Public Trust
14 | determines, based on such investigation, whether probable
15 | cause exists to believe that a violation has occurred. In no
16 | event shall a complaint under this part against a candidate in
17 | any general, special, or primary election be filed or any
18 | intention of filing such a complaint be disclosed on the day
19 | of any such election or within the 5 days immediately
20 | preceding the date of the election.

21 | **(b) Paragraph (a) is subject to the Open Government**
22 | **Sunset Review Act of 1995 in accordance with s. 119.15,**
23 | **Florida Statutes, and shall stand repealed on October 2, 2010,**
24 | **unless reviewed and saved from repeal through reenactment by**
25 | **the Legislature.**

26 | Section 2. **The Legislature finds it a public necessity**
27 | **that the complaint and records relating to the complaint of an**
28 | **alleged violation of part III of chapter 112, Florida**
29 | **Statutes, the Code of Ethics for Public Officers and**
30 | **Employees, or any other alleged breach of the public trust**
31 | **within the jurisdiction of a Commission on Ethics and Public**

1 Trust established by any municipality, and records relating to
2 any preliminary investigation of such complaint, be held
3 confidential and exempt from section 119.07(1), Florida
4 Statutes, and Section 24(a), Article I of the State
5 Constitution until the complaint is dismissed as legally
6 insufficient, until the alleged violator requests in writing
7 that such records and proceedings be made public, or until the
8 commission or a Commission on Ethics and Public Trust
9 determines, based on such investigation, whether probable
10 cause exists to believe that a violation has occurred. This
11 exemption is necessary because the release of such information
12 could potentially be defamatory to an individual under
13 investigation or cause unwarranted damage to the good name or
14 reputation of such individual. In addition, the Legislature
15 finds it a public necessity that any proceeding conducted by a
16 municipal Commission on Ethics and Public Trust pursuant to a
17 complaint or preliminary investigation of such alleged
18 violation be exempt from section 286.011, Florida Statutes,
19 Section 24(b), Article I of the State Constitution, and
20 section 120.525, Florida Statutes, so that the administration
21 of such proceeding by a municipal commission on ethics is not
22 otherwise significantly impaired. The exemption of these
23 proceedings from public meetings requirements minimizes the
24 possibility of unnecessary scrutiny by the public or media of
25 individuals under investigation and their families, and
26 creates a secure environment in which a municipal commission
27 on ethics may conduct its business. Furthermore, the
28 Legislature has already recognized the importance of the
29 mentioned public records and meetings exemptions by
30 exempting the records and meetings of the state Commission on
31

1 Ethics and those of a Commission on Ethics and Public Trust
2 formed by a county.

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

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 1922

9 The CS implements significant revisions to the statement of
10 public necessity.

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