

Bill No. CS for SB 2644

Barcode 530158

CHAMBER ACTION

Senate

House

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Senator Sebesta moved the following amendment:

Senate Amendment

Delete everything after the enacting clause

and insert:

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

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

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

(j) All user identifications and passwords held by the Division of Legislative Information Services pursuant to s. 11.0455.

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

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

Bill No. CS for SB 2644

Barcode 530158

1 112.32156 Electronic filing of compensation and
2 expenditure reports; confidentiality of information and draft
3 reports.--All user identifications and passwords held by the
4 commission pursuant to s. 112.32155 are confidential and
5 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
6 Constitution. All draft reports and files stored in the
7 electronic filing system pursuant to s. 112.32155 are exempt
8 from s. 119.07(1) and s. 24(a), Art. I of the State
9 Constitution until the report has been submitted as a filed
10 report. This section is subject to the Open Government Sunset
11 Review Act of 1995 in accordance with s. 119.15, and shall
12 stand repealed on October 2, 2010, unless reviewed and saved
13 from repeal through reenactment by the Legislature.

14 Section 3. Paragraph (d) is added to subsection (7) of
15 section 112.3215, Florida Statutes, to read:

16 112.3215 Lobbying ~~lobbyists~~ before the executive
17 branch or the Constitution Revision Commission; registration
18 and reporting; investigation by commission.--

19 (7)

20 (d) Records relating to the compensation-reporting
21 audit or an investigation pursuant to this section or s.
22 112.32155 are confidential and exempt from s. 119.07(1) and s.
23 24(a), Art. I of the State Constitution, and any meetings held
24 pursuant to an investigation or at which a
25 compensation-reporting audit is discussed are exempt from s.
26 286.011(1) and s. 24(b), Art. I of the State Constitution
27 either until the alleged violator requests in writing that
28 such investigation and associated records and meetings be made
29 public or until the commission determines, based on the
30 investigation, whether probable cause exists to believe that a
31 violation has occurred. This paragraph is subject to the Open

Bill No. CS for SB 2644

Barcode 530158

1 Government Sunset Review Act of 1995 in accordance with s.
 2 119.15, and shall stand repealed on October 2, 2010, unless
 3 reviewed and saved from repeal through reenactment by the
 4 Legislature.

5 Section 4. (1) The Legislature finds that it is a
 6 public necessity to exempt from public-records requirements
 7 all user identifications and passwords held by the Division of
 8 Legislative Information Services pursuant to section 11.0455,
 9 Florida Statutes, and by the Commission on Ethics pursuant to
 10 section 112.32155, Florida Statutes, as created in Senate Bill
 11 2646 or similar legislation. The public-records exemption is
 12 necessary to ensure accountability for the filing of false or
 13 inaccurate information. Under current law, the lobbyist, or
 14 the designated lobbyist and principal, must certify and bear
 15 responsibility for the correctness of each expenditure report
 16 filed with the Division of Legislative Information Services
 17 and the Commission on Ethics under pain of penalty or fine.
 18 The law uses the physical signatures of such individuals on
 19 the paper reports as evidence of attestation to the veracity
 20 of the report. Electronic reporting eliminates the evidentiary
 21 advantages of hard-copy signatures by persons submitting
 22 reports, so the provisions of law creating the electronic
 23 filing system provide for the issuance of secure "sign-on"
 24 information to the individuals designated, and provides that
 25 such individuals are responsible for all filing using such
 26 "sign-on" credentials unless they have notified the division
 27 or commission, whichever is applicable, that their credentials
 28 have been compromised. Without a public-records exemption for
 29 this information, there would be no accountability for
 30 lobbying compensation and expenditure reporting.

31 (2) In addition, the public-records exemption is

Bill No. CS for SB 2644

Barcode 530158

1 necessary to protect against the unwarranted submission of
2 false or erroneous lobbying compensation and expenditure data.
3 Limiting access to the electronic filing system will prevent
4 unauthorized users from changing or submitting false or
5 inaccurate information that could be damaging to the reporting
6 persons and result in fines and penalties being levied against
7 the persons accountable by statute for the veracity of the
8 information.

9 (3) The Legislature also finds that it is a public
10 necessity to exempt from public-records requirements draft
11 reports and files entered into the electronic filing system by
12 persons subject to the electronic-reporting requirements until
13 a final report is due pursuant to law. The public-records
14 exemption for draft reports and files will allow all lobbying
15 firms, principals, lobbyists, and lobbying firms to update
16 reports and subject the reports to internal verifications to
17 check for errors prior to submission. Also, the public-records
18 exemption will provide each principal the opportunity to
19 review and verify the expenditure report of his or her
20 designated lobbyist, especially lobbying expenditures made
21 directly by the principal for which the principal is
22 responsible. Principals are deemed to certify to the accuracy
23 of such expenditures submitted by operation of law pursuant to
24 section 11.0455 or section 112.32155, Florida Statutes,
25 whichever is applicable.

26 (4) The Legislature also finds that this
27 public-records exemption will accelerate the public's access
28 to expenditure information compared with current law, which
29 allows for the filing of paper reports by mail on the
30 designated due date and may result in both mailing and
31 data-entry delays in processing the information to the

Bill No. CS for SB 2644

Barcode 530158

1 Internet. Lobbying compensation information is not currently
2 reported at all.

3 (5) Finally, the Legislature finds that it is a public
4 necessity to exempt from public-records and open-meetings
5 requirements records relating to the compensation-reporting
6 audit and investigation of violations of the executive
7 lobbying compensation reporting laws, and meetings held
8 pursuant to an investigation or at which a
9 compensation-reporting audit is discussed or at which such
10 records are discussed, until the alleged violator requests in
11 writing that such associated records and materials be made
12 public or the Commission on Ethics has made a probable cause
13 determination. The release to the public of records and
14 investigative information in connection with possible
15 violations before the Commission makes a probable cause
16 determination may have an adverse effect upon the person who
17 is the subject of the investigation. Also, making such
18 records and information available to the public could hamper
19 the Commission's ongoing investigation, and its ability to
20 gather pertinent documents and information crucial to making a
21 probable cause determination. Further, the exemption is of
22 limited scope so that the alleged violator's rights are
23 protected while, at the same time, preserving the public's
24 right to ultimately obtain the information.

25 Section 5. This act shall take effect on the same date
26 that Senate Bill 2646 or similar legislation takes effect,
27 creating section 11.0455 and section 112.32155, Florida
28 Statutes, to provide for electronic filing of lobbying
29 compensation and expenditure reports, and amending section
30 112.3215, Florida Statutes, to provide for the investigation
31 of possible lobbying compensation reporting violations, if

Bill No. CS for SB 2644

Barcode 530158

1 such legislation is enacted in the same legislative session or
2 an extension thereof and becomes law.

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