

Bill No. SB 2644

Barcode 672480

CHAMBER ACTION

Senate

House

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The Committee on Ethics and Elections (Sebesta) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraphs (j) and (k) of subsection (2) of section 11.0431, Florida Statutes, are created 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 activity 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:

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1 112.32156 Electronic filing of lobbying activity
2 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12 stand repealed on October 2, 2010, unless reviewed and saved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) of subsection (7) of section
15 112.3215, Florida Statutes, is created to read:

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

19 (7)

20 (d) All proceedings and other records relating to the
21 audit and investigation are confidential and exempt from the
22 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
23 Constitution, and any meetings held pursuant to an
24 investigation are exempt from the provisions of s. 286.011(1)
25 and s. 24(b), Art. I of the State Constitution either until
26 the alleged violator requests in writing that such
27 investigation and associated records and meetings be made
28 public or until the commission determines, based on the
29 investigation, whether probable cause exists to believe that a
30 violation has occurred. This paragraph is subject to the Open
31 Government Sunset Review Act of 1995 in accordance with s.

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1 119.15 and shall stand repealed on October 2, 2010, unless
2 reviewed and saved from repeal through reenactment by the
3 Legislature.

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

30 (2) In addition, the public-records exemption is
31 necessary to protect against the unwarranted submission of

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

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

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

29 (5) Finally, the Legislature finds that it is a public
30 necessity to exempt from public-records and open-meetings
31 requirements all proceedings and other records relating to the

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1 audit and investigation of violations of the executive
2 lobbying compensation reporting laws, until the alleged
3 violator requests in writing that such associated records and
4 materials be made public or the Commission on Ethics has made
5 a probable cause determination. The release to the public of
6 proceeding records and investigative information in connection
7 with possible violations before the Commission makes a
8 probable cause determination may have an adverse effect upon
9 the person who is the subject of the investigation. Also,
10 making such proceedings and information available to the
11 public could hamper the Commission's ongoing investigation,
12 and its ability to gather pertinent documents and information
13 crucial to making a probable cause determination. Further,
14 the exemption is of limited scope so that the alleged
15 violator's rights are protected while, at the same time,
16 preserving the public's right to ultimately obtain the
17 information.

18 Section 5. This act shall take effect upon becoming a
19 law, but it shall not take effect unless Senate Bill 2646, or
20 similar legislation creating section 11.0455 and section
21 112.32155, Florida Statutes, to provide for electronic filing
22 of lobbying activity reports, and amending section 112.3215,
23 Florida Statutes, to provide for the investigation of possible
24 lobbying compensation reporting violations, is adopted in the
25 same legislative session or an extension thereof and becomes
26 law.

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29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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1 and insert:

2 A bill to be entitled

3 An act relating to public records and open

4 meetings; amending s. 11.0431, F.S.; creating

5 an exemption from public-records requirements

6 for user identification and passwords held by

7 the Division of Legislative Information

8 Services pursuant to s. 11.0455, F.S.; creating

9 a temporary exemption from public-records

10 requirements for reports and files stored in

11 the electronic filing system pursuant to s.

12 11.0455, F.S.; creating s. 112.32156, F.S.;

13 creating an exemption from public-records

14 requirements for user identifications and

15 passwords held by the Commission on Ethics

16 pursuant to s. 112.32155, F.S.; creating a

17 temporary exemption from public-records

18 requirements for reports and files stored in

19 the electronic system pursuant to s. 112.32155,

20 F.S.; providing for future legislative review

21 and repeal under the Open Government Sunset

22 Review Act; creating paragraph (d) of

23 subsection (7) of section 112.3215, F.S.;

24 creating a temporary exemption from

25 public-records and open-meetings requirements

26 for proceedings and records relating to the

27 audit and investigation of possible lobbying

28 compensation reporting violations; providing

29 for future legislative review and repeal under

30 the Open Government Sunset Review Act;

31 providing findings of public necessity;

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1 providing a contingent effective date.
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