

By Senator Sebesta

16-1401A-05

1 A bill to be entitled

2 An act relating to public records; creating s.

3 11.0456, F.S.; creating an exemption from

4 public-records requirements for user

5 identification and passwords held by the

6 Division of Legislative Information Services

7 pursuant to s. 11.0455, F.S.; creating a

8 temporary exemption from public-records

9 requirements for reports and files stored in

10 the electronic filing system pursuant to s.

11 11.0455, F.S.; providing for future legislative

12 review and repeal under the Open Government

13 Sunset Review Act; providing findings of public

14 necessity; providing a contingent effective

15 date.

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

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19 Section 1. Section 11.0456, Florida Statutes, is

20 created to read:

21 11.0456 Electronic filing of lobbying activity

22 reports; confidentiality of information and draft

23 reports.--All user identifications and passwords held by the

24 Division of Legislative Information Services pursuant to s.

25 11.0455 are confidential and exempt from s. 119.07(1) and s.

26 24(a), Art. I of the State Constitution. All draft reports and

27 files stored in the electronic filing system pursuant to s.

28 11.0455 are exempt from s. 119.07(1) and s. 24(a), Art. I of

29 the State Constitution until the report has been submitted as

30 a filed report. This section is subject to the Open Government

31 Sunset Review Act of 1995 in accordance with s. 119.15 and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 shall stand repealed on October 2, 2010, unless reviewed and
2 saved from repeal through reenactment by the 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 Division of
6 Legislative Information Services pursuant to section 11.0455,
7 Florida Statutes, as created in Senate Bill _____ or similar
8 legislation. The public-records exemption is necessary to
9 ensure accountability for the filing of false or inaccurate
10 information. Under current law, the lobbyist, or the
11 designated lobbyist and principal, must certify and bear
12 responsibility for the correctness of each campaign finance
13 report filed with the Division of Legislative Information
14 Services under pain of legislative penalty or fine. The law
15 uses the physical signatures of such individuals on the paper
16 reports as evidence of attestation to the veracity of the
17 report. Electronic reporting eliminates the evidentiary
18 advantages of hard-copy signatures by persons submitting
19 reports, so the provisions of law creating the electronic
20 filing system provide for the issuance of secure "sign-on"
21 information to the individuals designated, and provides that
22 such individuals are responsible for all filing using such
23 "sign-on" credentials unless they have notified the division
24 that their credentials have been compromised. Without a
25 public-records exemption for this information, there would be
26 no accountability for lobbying activity reporting.

27 (2) In addition, the public-records exemption is
28 necessary to protect against the unwarranted submission of
29 false or erroneous lobbying activity data. Limiting access to
30 the electronic filing system will prevent unauthorized users
31 from changing or submitting false or inaccurate information

1 that could be damaging to the reporting persons and result in
2 finances and penalties being levied against the persons
3 accountable by statute for the veracity of the information.

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

19 (4) Finally, this public-records exemption will
20 accelerate the public's access to this information compared
21 with current law, which allows for the filing of paper reports
22 by mail on the designated due date and may result in both
23 mailing and data entry delays in processing the information to
24 the Internet.

25 Section 3. This act shall take effect upon becoming a
26 law, but it shall not take effect unless, Senate Bill _____, or
27 similar legislation creating section 11.0455, Florida
28 Statutes, to provide for electronic filing of lobbying
29 activity reports, is adopted in the same legislative session
30 or an extension thereof and becomes law.
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SENATE SUMMARY

Exempts user identification and passwords held by the Division of Legislative Information Services from the public-records law. Exempts a draft report and files stored by the division from the public-records law until the report is submitted as a filed report. Provides for future repeal and legislative review of the exemption.