

1 A bill to be entitled
2 An act relating to public records and open
3 meetings; amending s. 11.0431, F.S.; creating
4 an exemption from public-records requirements
5 for user identification and passwords held by
6 the Division of Legislative Information
7 Services pursuant to s. 11.0455, F.S.; creating
8 a 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.; creating s. 112.32156, F.S.;
12 creating an exemption from public-records
13 requirements for user identifications and
14 passwords held by the Commission on Ethics
15 pursuant to s. 112.32155, F.S.; creating a
16 temporary exemption from public-records
17 requirements for reports and files stored in
18 the electronic system pursuant to s. 112.32155,
19 F.S.; providing for future legislative review
20 and repeal under the Open Government Sunset
21 Review Act; amending s. 112.3215, F.S.;
22 creating a temporary exemption from
23 public-records and open-meetings requirements
24 for records relating to the
25 compensation-reporting audit and investigation
26 of possible lobbying compensation reporting
27 violations and for meetings held pursuant to an
28 investigation or at which a
29 compensating-reporting audit is discussed;
30 providing for future legislative review and
31 repeal under the Open Government Sunset Review

1 Act; providing findings of public necessity;
2 providing a contingent effective date.
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4 Be It Enacted by the Legislature of the State of Florida:
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6 Section 1. Paragraphs (j) and (k) are added to
7 subsection (2) of section 11.0431, Florida Statutes, to read:
8 11.0431 Legislative records; intent of legislation;
9 exemption from public disclosure.--

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

12 (j) All user identifications and passwords held by the
13 Division of Legislative Information Services pursuant to s.
14 11.0455.

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

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

21 112.32156 Electronic filing of compensation and
22 expenditure reports; confidentiality of information and draft
23 reports.--All user identifications and passwords held by the
24 commission pursuant to s. 112.32155 are confidential and
25 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
26 Constitution. All draft reports and files stored in the
27 electronic filing system pursuant to s. 112.32155 are exempt
28 from s. 119.07(1) and s. 24(a), Art. I of the State
29 Constitution until the report has been submitted as a filed
30 report. This section is subject to the Open Government Sunset
31 Review Act of 1995 in accordance with s. 119.15, and shall

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

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

5 112.3215 Lobbying ~~Lobbyists~~ before the executive
6 branch or the Constitution Revision Commission; registration
7 and reporting; investigation by commission.--

8 (7)

9 (d) Records relating to the compensation-reporting
10 audit or an investigation pursuant to this section or s.
11 112.32155 are confidential and exempt from s. 119.07(1) and s.
12 24(a), Art. I of the State Constitution, and any meetings held
13 pursuant to an investigation or at which a
14 compensation-reporting audit is discussed are exempt from s.
15 286.011(1) and s. 24(b), Art. I of the State Constitution
16 either until the alleged violator requests in writing that
17 such investigation and associated records and meetings be made
18 public or until the commission determines, based on the
19 investigation, whether probable cause exists to believe that a
20 violation has occurred. This paragraph is subject to the Open
21 Government Sunset Review Act of 1995 in accordance with s.
22 119.15, and shall stand repealed on October 2, 2010, unless
23 reviewed and saved from repeal through reenactment by the
24 Legislature.

25 Section 4. (1) The Legislature finds that it is a
26 public necessity to exempt from public-records requirements
27 all user identifications and passwords held by the Division of
28 Legislative Information Services pursuant to section 11.0455,
29 Florida Statutes, and by the Commission on Ethics pursuant to
30 section 112.32155, Florida Statutes, as created in Senate Bill
31 2646 or similar legislation. The public-records exemption is

1 necessary to ensure accountability for the filing of false or
2 inaccurate information. Under current law, the lobbyist, or
3 the designated lobbyist and principal, must certify and bear
4 responsibility for the correctness of each expenditure report
5 filed with the Division of Legislative Information Services
6 and the Commission on Ethics under pain of penalty or fine.
7 The law uses the physical signatures of such individuals on
8 the paper reports as evidence of attestation to the veracity
9 of the report. Electronic reporting eliminates the evidentiary
10 advantages of hard-copy signatures by persons submitting
11 reports, so the provisions of law creating the electronic
12 filing system provide for the issuance of secure "sign-on"
13 information to the individuals designated, and provides that
14 such individuals are responsible for all filing using such
15 "sign-on" credentials unless they have notified the division
16 or commission, whichever is applicable, that their credentials
17 have been compromised. Without a public-records exemption for
18 this information, there would be no accountability for
19 lobbying compensation and expenditure reporting.

20 (2) In addition, the public-records exemption is
21 necessary to protect against the unwarranted submission of
22 false or erroneous lobbying compensation and expenditure data.
23 Limiting access to the electronic filing system will prevent
24 unauthorized users from changing or submitting false or
25 inaccurate information that could be damaging to the reporting
26 persons and result in fines and penalties being levied against
27 the persons accountable by statute for the veracity of the
28 information.

29 (3) The Legislature also finds that it is a public
30 necessity to exempt from public-records requirements draft
31 reports and files entered into the electronic filing system by

1 persons subject to the electronic-reporting requirements until
2 a final report is due pursuant to law. The public-records
3 exemption for draft reports and files will allow all lobbying
4 firms, principals, lobbyists, and lobbying firms to update
5 reports and subject the reports to internal verifications to
6 check for errors prior to submission. Also, the public-records
7 exemption will provide each principal the opportunity to
8 review and verify the expenditure report of his or her
9 designated lobbyist, especially lobbying expenditures made
10 directly by the principal for which the principal is
11 responsible. Principals are deemed to certify to the accuracy
12 of such expenditures submitted by operation of law pursuant to
13 section 11.0455 or section 112.32155, Florida Statutes,
14 whichever is applicable.

15 (4) The Legislature also finds that this
16 public-records exemption will accelerate the public's access
17 to expenditure information compared with current law, which
18 allows for the filing of paper reports by mail on the
19 designated due date and may result in both mailing and
20 data-entry delays in processing the information to the
21 Internet. Lobbying compensation information is not currently
22 reported at all.

23 (5) Finally, the Legislature finds that it is a public
24 necessity to exempt from public-records and open-meetings
25 requirements records relating to the compensation-reporting
26 audit and investigation of violations of the executive
27 lobbying compensation reporting laws, and meetings held
28 pursuant to an investigation or at which a
29 compensation-reporting audit is discussed or at which such
30 records are discussed, until the alleged violator requests in
31 writing that such associated records and materials be made

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

14 Section 5. This act shall take effect on the same date
15 that Senate Bill 2646 or similar legislation takes effect,
16 creating section 11.0455 and section 112.32155, Florida
17 Statutes, to provide for electronic filing of lobbying
18 compensation and expenditure reports, and amending section
19 112.3215, Florida Statutes, to provide for the investigation
20 of possible lobbying compensation reporting violations, if
21 such legislation is enacted in the same legislative session or
22 an extension thereof and becomes law.

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