

By Senator Posey

24-1756-06

1 A bill to be entitled
2 An act relating to public records; creating s.
3 112.3153, F.S.; creating an exemption from
4 public-records requirements for user
5 identification and passwords held by the
6 Commission on Ethics pursuant to s. 112.3152,
7 F.S.; creating an exemption from public-records
8 requirements for statements, records, reports,
9 and files stored in the commission's electronic
10 filing system pursuant to s. 112.3152, F.S.;
11 providing for expiration of the exemption;
12 providing for future legislative review and
13 repeal under the Open Government Sunset Review
14 Act; providing findings of public necessity;
15 providing an effective 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 112.3153, Florida Statutes, is
20 created to read:
21 112.3153 Electronic filing of statements or reports;
22 confidentiality of information and draft statements or
23 reports.--All user identifications and passwords held by the
24 commission pursuant to s. 112.3152 are confidential and exempt
25 from s. 119.07(1) and s. 24(a), Art. I of the State
26 Constitution. Each statement, record, report, and file stored
27 in the electronic filing system pursuant to s. 112.3152 is
28 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
29 Constitution until such time as the statement or report has
30 been submitted as a filed statement or report. This section is
31 subject to the Open Government Sunset Review Act in accordance

1 with s. 119.15 and shall stand repealed on October 2, 2011,
2 unless reviewed and saved from repeal through reenactment by
3 the Legislature.

4 Section 2. (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 Commission
7 on Ethics pursuant to s. 112.3152, Florida Statutes. The
8 public-records exemption is necessary to ensure accountability
9 for the filing of false or inaccurate information. Under
10 current law, certain individuals must certify and bear
11 responsibility for the correctness of each statement or report
12 filed with the commission under pain of personal criminal
13 prosecution or administrative fine. The law uses the physical
14 signatures of such individuals on the paper statements or
15 reports as evidence of attestation to the veracity of the
16 statement or report. Electronic reporting eliminates the
17 evidentiary advantages of hard-copy signatures by persons
18 submitting statements or reports, so the provisions of law
19 creating the electronic filing system provide for the issuance
20 of secure "sign-on" information to the individuals designated
21 and provide that such individuals are responsible for all
22 filing using such "sign-on" credentials unless they have
23 notified the commission that their credentials have been
24 compromised. Without a public-records exemption for this
25 information, there would be no accountability for reporting.

26 (2) In addition, the public-records exemption is
27 necessary to protect against the unwarranted submission of
28 false or erroneous data. Limiting access to the electronic
29 filing system will prevent unauthorized users from changing or
30 submitting false or inaccurate information that could be
31 damaging to the reporting individual and result in charges

1 being brought against the individuals accountable by statute
2 for the veracity of the information.

3 (3) The Legislature also finds that it is a public
4 necessity to exempt from public-records requirements all
5 statements, records, reports, and files created from
6 information entered into the electronic filing system by
7 individuals subject to electronic-reporting requirements until
8 such time as a final statement or report is filed with the
9 commission. It is anticipated that best practices would
10 encourage periodic and timely updates to the draft statement
11 or report throughout the covered reporting period and that
12 this exemption would allow reporting individuals adequate time
13 to enter all the information. Some statements and reports may
14 contain individual entries for items such as dates, names,
15 assets, and liabilities. It is simply not technologically or
16 practically feasible to require all this information to be
17 manually input on the designated statutory due date. The
18 public-records exemption will allow reporting individuals to
19 update the information in their draft statements or reports
20 throughout the reporting period and subject the statements or
21 reports to internal audits to check for errors prior to
22 submission. The updated statement or report for the entire
23 reporting period can then be submitted as required by law.

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

30 Section 3. This act shall take effect upon becoming a
31 law if Senate Bill _____, or similar legislation creating s.

1 112.3152, Florida Statutes, to provide for electronic filing
2 of statements is adopted in the same legislative session or an
3 extension thereof and becomes law.

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SENATE SUMMARY

Exempts user identification and passwords held by the
Commission on Ethics from public-records disclosure.
Exempts statements or reports of financial interests,
gifts, and honoraria which are held by the commission
from public-records disclosure until they are submitted
as filed statements or reports.