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585-03818-10

Proposed Committee Substitute by the Committee on Governmental  
Oversight and Accountability

A bill to be entitled

An act relating to a review under the Open Government  
Sunset Review Act; amending s. 1005.38, F.S., which  
provides an exemption from public-records requirements  
for investigatory records held by the Commission for  
Independent Education and an exemption from public-  
meetings requirements for a probable cause panel  
wherein exempt information is discussed; reorganizing  
the exemption; requiring a recording for any portion  
of a closed meeting of a probable cause panel;  
providing a public-records exemption for the recording  
of a closed meeting of a probable cause panel and the  
minutes and findings of the meeting; providing for  
limited duration of the exemption; providing for  
future legislative review and repeal of the exemption;  
providing a statement of public necessity; providing  
an effective date.

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

Section 1. Paragraph (b) of subsection (6) of section  
1005.38, Florida Statutes, is amended to read:

1005.38 Actions against a licensee and other penalties.—

(6) The commission may conduct disciplinary proceedings  
through an investigation of any suspected violation of this  
chapter or any rule of the commission, including a finding of  
probable cause and making reports to any law enforcement agency



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28 or regulatory agency.

29 (b)1. All investigatory records held by the commission in  
30 conjunction with an investigation conducted pursuant to this  
31 subsection, ~~including minutes and findings of an exempt probable~~  
32 ~~cause panel meeting convened in conjunction with such~~  
33 ~~investigation,~~ are exempt from s. 119.07(1) and s. 24(a), Art. I  
34 of the State Constitution for a period not to exceed 10 days  
35 after the panel makes a determination regarding probable cause.

36 2.a. Those portions of meetings of the probable cause panel  
37 at which records made exempt pursuant to subparagraph 1. are  
38 discussed are exempt from s. 286.011 and s. 24(b), Art. I of the  
39 State Constitution. The closed portion of a meeting must be  
40 recorded, and no portion of the closed meeting may be off the  
41 record. The recording shall be maintained by the commission.

42 b. The recording of a closed portion of a meeting and the  
43 minutes and findings of such meeting are exempt from s.  
44 119.07(1) and s. 24(a), Art. I of the State Constitution for a  
45 period not to exceed 10 days after the panel makes a  
46 determination regarding probable cause.

47 3. This paragraph is subject to the Open Government Sunset  
48 Review Act in accordance with s. 119.15 and shall stand repealed  
49 on October 2, 2015 ~~2010~~, unless reviewed and saved from repeal  
50 through reenactment by the Legislature.

51 Section 2. The Legislature finds that it is a public  
52 necessity to make exempt from public-records requirements  
53 recordings of any portion of a closed meeting of a probable  
54 cause panel of the Commission for Independent Education and the  
55 minutes and findings of the meeting. Release of such recordings,  
56 minutes, or findings would compromise those discussions of the



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57 commission members which took place during a closed meeting,  
58 thus negating the public-meetings exemption. In addition, the  
59 temporary nature of the public-records exemption for the  
60 recording of a closed meeting of the probable cause panel  
61 ensures that public oversight is provided.

62 Section 3. This act shall take effect October 1, 2010.