

By the Committees on Governmental Oversight and Accountability;
and Higher Education

585-04247-10

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1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 1005.38, F.S., which
4 provides an exemption from public-records requirements
5 for investigatory records held by the Commission for
6 Independent Education and an exemption from public-
7 meetings requirements for a probable cause panel
8 wherein exempt information is discussed; reorganizing
9 the exemption; requiring a recording for any portion
10 of a closed meeting of a probable cause panel;
11 providing a public-records exemption for the recording
12 of a closed meeting of a probable cause panel and the
13 minutes and findings of the meeting; providing for
14 limited duration of the exemption; providing for
15 future legislative review and repeal of the exemption;
16 providing a statement of public necessity; providing
17 an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:
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21 Section 1. Paragraph (b) of subsection (6) of section
22 1005.38, Florida Statutes, is amended to read:

23 1005.38 Actions against a licensee and other penalties.—

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

29 (b)1. All investigatory records held by the commission in

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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
57 commission members which took place during a closed meeting,
58 thus negating the public-meetings exemption. In addition, the

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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.