

By Senator Villalobos

38-01431-10

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1                   A bill to be entitled  
2           An act relating to the Legislature; providing a short  
3           title; amending s. 11.143, F.S.; eliminating the  
4           authority of members of a legislative committee to  
5           administer certain oaths and affirmations to  
6           witnesses; eliminating penalties for false swearing  
7           before a legislative committee; conforming to the  
8           creation of new provisions relating to oaths and  
9           affirmations before a legislative committee; creating  
10          s. 11.1435, F.S.; requiring that persons addressing a  
11          legislative committee take an oath or affirmation of  
12          truthfulness; providing exceptions; requiring that a  
13          member of the legislative committee administer the  
14          oath or affirmation; providing criminal penalties for  
15          certain false statements before a legislative  
16          committee; authorizing the use of a signed appearance  
17          card in lieu of an oral oath or affirmation;  
18          prescribing conditions related to the use of such  
19          card; providing for penalties for making a false  
20          statement after signing such card; providing an  
21          effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. This act may be cited as the "Truth in  
26 Government Act."

27           Section 2. Section 11.143, Florida Statutes, is amended to  
28 read:

29           11.143 Standing or select committees; powers.—

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30           (1) (a) Each standing or select committee, or subcommittee  
31 thereof, is authorized to invite public officials and employees  
32 and private individuals to appear before the committee for the  
33 purpose of submitting information to it.

34           (b) Each such committee is authorized to maintain a  
35 continuous review of the work of the state agencies concerned  
36 with its subject area and the performance of the functions of  
37 government within each such subject area and for this purpose to  
38 request reports from time to time, in such form as the committee  
39 designates, concerning the operation of any state agency and  
40 presenting any proposal or recommendation such agency may have  
41 with regard to existing laws or proposed legislation in its  
42 subject area.

43           (2) In order to carry out its duties, each such committee  
44 is empowered with the right and authority to inspect and  
45 investigate the books, records, papers, documents, data,  
46 operation, and physical plant of any public agency in this  
47 state, including any confidential information.

48           (3) (a) In order to carry out its duties, each such  
49 committee, whenever required, may issue subpoena and other  
50 necessary process to compel the attendance of witnesses before  
51 such committee, and the chair thereof shall issue the process on  
52 behalf of the committee, in accordance with the rules of the  
53 respective house. ~~The chair or any other member of such~~  
54 ~~committee may administer all oaths and affirmations in the~~  
55 ~~manner prescribed by law to witnesses who appear before the~~  
56 ~~committee for the purpose of testifying in any matter concerning~~  
57 ~~which the committee desires evidence.~~

58           (b) Each such committee, whenever required, may also compel

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59 by subpoena duces tecum the production of any books, letters, or  
60 other documentary evidence, including any confidential  
61 information, it desires to examine in reference to any matter  
62 before it.

63 (c) Either house during the session may punish by fine or  
64 imprisonment any person not a member who has been guilty of  
65 disorderly or contemptuous conduct in its presence or of a  
66 refusal to obey its lawful summons, but such imprisonment must  
67 not extend beyond the final adjournment of the session.

68 (d) The sheriffs in the several counties or a duly  
69 constituted agent of a Florida legislative committee 18 years of  
70 age or older shall make such service and execute all process or  
71 orders when required by such committees. Sheriffs shall be paid  
72 as provided for in s. 30.231.

73 ~~(4) (a) Whoever willfully affirms or swears falsely in~~  
74 ~~regard to any material matter or thing before any such committee~~  
75 ~~is guilty of false swearing, which constitutes a felony of the~~  
76 ~~second degree, punishable as provided in s. 775.082, s. 775.083,~~  
77 ~~or s. 775.084.~~

78 ~~(b)~~ If a witness fails to respond to the lawful subpoena of  
79 any such committee at a time when the Legislature is not in  
80 session or, having responded, fails to answer all lawful  
81 inquiries or to turn over evidence that has been subpoenaed,  
82 such committee may file a complaint before any circuit court of  
83 the state setting up such failure on the part of the witness. On  
84 the filing of such complaint, the court shall take jurisdiction  
85 of the witness and the subject matter of the complaint and shall  
86 direct the witness to respond to all lawful questions and to  
87 produce all documentary evidence in the possession of the

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88 witness which is lawfully demanded. The failure of a witness to  
89 comply with such order of the court constitutes a direct and  
90 criminal contempt of court, and the court shall punish the  
91 witness accordingly.

92 (5) All witnesses summoned before any such committee shall  
93 receive reimbursement for travel expenses and per diem at the  
94 rates provided in s. 112.061. However, the fact that such  
95 reimbursement is not tendered at the time the subpoena is served  
96 does not excuse the witness from appearing as directed therein.

97 Section 3. Section 11.1435, Florida Statutes, is created to  
98 read:

99 11.1435 Oath or affirmation; penalty.-

100 (1) (a) Any person who addresses a standing or select  
101 committee, or subcommittee thereof, shall first declare that he  
102 or she will speak truthfully, by taking an oath or affirmation  
103 in substantially the following form: "Do you swear or affirm  
104 that the information you are about to share will be the truth,  
105 the whole truth, and nothing but the truth?" The person's answer  
106 shall be noted in the record.

107 (b) Paragraph (a) does not apply to:

108 1. A member of the Legislature in his or her official  
109 capacity or an employee of the Legislature in his or her  
110 capacity as an employee; however, the member or employee shall  
111 be subject to discipline by the presiding officer of the  
112 applicable house of the Legislature for making a false statement  
113 that he or she does not believe to be true.

114 2. A child, if the chair of the committee determines the  
115 child understands the duty to tell the truth or the duty not to  
116 lie.

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117  
118 Notwithstanding the exceptions prescribed in this paragraph, a  
119 standing or select committee, or any subcommittee thereof, may,  
120 if it deems necessary, require any person who addresses the  
121 committee to take an oath or affirmation of truthfulness as  
122 provided in this section and subject to the penalties provided  
123 in this section.

124 (c) The chair or any other member of the committee shall  
125 administer the oath or affirmation required under this section.

126 (2) (a) Except as provided in paragraph (b), whoever makes a  
127 false statement that he or she does not believe to be true,  
128 under the oath or affirmation required by this section in regard  
129 to any material matter, commits a felony of the third degree,  
130 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

131 (b) Whoever is compelled by subpoena as a witness before a  
132 committee under s. 11.143(3) and who makes a false statement  
133 that he or she does not believe to be true, under the oath or  
134 affirmation required by this section in regard to any material  
135 matter, commits a felony of the second degree, punishable as  
136 provided in s. 775.082, s. 775.083, or s. 775.084.

137 (3) In lieu of the oral oath or affirmation required by  
138 this section, the Senate or the House of Representatives may by  
139 the rules of each respective house require any person, as  
140 prescribed in subsection (1), who addresses a committee to  
141 complete and sign an appearance form. The form must be signed  
142 before the person addresses the committee. Signing the form  
143 constitutes a written affirmation to speak the truth, the whole  
144 truth, and nothing but the truth, and subjects the person to the  
145 penalties as provided in this section. The form must include a

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146 statement notifying the person that signing the form constitutes  
147 an affirmation and notifying the person of the penalty  
148 provisions.

149 Section 4. This act shall take effect July 1, 2010.