

By Senator Fasano

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1 A bill to be entitled
2 An act relating to public records and meetings;
3 amending s. 112.324, F.S.; providing an exemption from
4 public-records requirements for a determination by the
5 Commission on Ethics regarding an information or a
6 written referral of an alleged violation of part III
7 of ch. 112, F.S., the Code of Ethics for Public
8 Officers and Employees; providing an exemption from
9 public-meetings requirements for any proceeding
10 conducted by the commission or a local Commission on
11 Ethics and Public Trust pursuant to such information
12 or referral; authorizing the commission and its staff
13 to share investigative information with criminal
14 investigative agencies; providing for review and
15 repeal of the exemptions under the Open Government
16 Sunset Review Act; providing a statement of public
17 necessity; providing a contingent effective date.

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

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21 Section 1. Subsection (2) of section 112.324, Florida
22 Statutes, is amended to read:

23 112.324 Procedures on complaints of violations; public
24 records and meeting exemptions.—

25 (2) (a) The complaint and records relating to the complaint
26 or to any preliminary investigation or the commission's
27 determination regarding the information or the referral, as
28 provided in this section, held by the commission or its agents
29 or by a Commission on Ethics and Public Trust established by any

11-02245-10

20102494

30 county defined in s. 125.011(1) or by any municipality defined
31 in s. 165.031 are confidential and exempt from the provisions of
32 s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and
33 any proceeding conducted by the commission or a Commission on
34 Ethics and Public Trust, pursuant to a complaint, information,
35 or referral as provided in this section, or preliminary
36 investigation, is exempt from the provisions of s. 286.011, s.
37 24(b), Art. I of the State Constitution, and s. 120.525, until
38 the complaint is dismissed as legally insufficient, until the
39 alleged violator requests in writing that such records and
40 proceedings be made public, until the commission determines that
41 it will not investigate the complaint or referral, or until the
42 commission or a Commission on Ethics and Public Trust
43 determines, based on such investigation, whether probable cause
44 exists to believe that a violation has occurred. The
45 confidentiality requirements of this subsection do not prohibit
46 the commission or its staff from sharing investigative
47 information with criminal investigative agencies. ~~In no event~~
48 ~~shall~~ A complaint under this part against a candidate in any
49 general, special, or primary election may not be filed and ~~or~~
50 any intention of filing such a complaint may not be disclosed on
51 the day of any such election or within the 5 days immediately
52 preceding the date of the election.

53 (b) Paragraph (a) is subject to the Open Government Sunset
54 Review Act in accordance with s. 119.15 and shall stand repealed
55 on October 2, 2015 ~~2010~~, unless reviewed and saved from repeal
56 through reenactment by the Legislature.

57 Section 2. The Legislature finds it a public necessity that
58 the information or referral of an alleged violation of part III

11-02245-10

20102494

59 of chapter 112, Florida Statutes, the Code of Ethics for Public
60 Officers and Employees, be held confidential and exempt from s.
61 119.07(1), Florida Statutes, and s. 24(a), Article I of the
62 State Constitution until the information or referral is
63 dismissed as legally insufficient, until the alleged violator
64 requests in writing that such records and proceedings be made
65 public, until the Commission on Ethics determines that it will
66 not investigate the complaint or referral, or until the
67 commission or a Commission on Ethics and Public Trust
68 determines, based on such investigation, whether probable cause
69 exists to believe that a violation has occurred. This exemption
70 is necessary because the release of such information could
71 potentially be defamatory to an individual under investigation
72 or cause unwarranted damage to the good name or reputation of
73 such individual. In addition, the Legislature finds it a public
74 necessity that any proceeding conducted by a county or municipal
75 Commission on Ethics and Public Trust pursuant to an information
76 or referral be exempt from s. 286.011, Florida Statutes, s.
77 24(b), Article I of the State Constitution, and s. 120.525,
78 Florida Statutes, so that the administration of such proceeding
79 is not otherwise significantly impaired. The exemption of these
80 proceedings from public-meetings requirements minimizes the
81 possibility of unnecessary scrutiny by the public or media of
82 individuals under investigation and their families. Furthermore,
83 the Legislature has already recognized the importance of the
84 aforementioned public-records and public-meetings exemptions by
85 exempting the records and meetings of the state Commission on
86 Ethics and those of a Commission on Ethics and Public Trust
87 formed by a county or municipality.

11-02245-10

20102494__

88 Section 3. This act shall take effect July 1, 2010, only if
89 Senate Bill ____ or similar legislation is adopted in the same
90 legislative session or an extension thereof and becomes law.