

HB 7167

2010

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 for  
5 investigatory records held by the Commission for  
6 Independent Education and an exemption from public  
7 meetings requirements for a probable cause panel wherein  
8 exempt information is discussed; reorganizing the  
9 exemption; requiring a recording for any portion of a  
10 closed meeting of a probable cause panel; providing a  
11 public records exemption for the recording of a closed  
12 meeting of a probable cause panel and the minutes and  
13 findings of the meeting; providing for limited duration of  
14 the exemption; providing for future legislative review and  
15 repeal of the exemptions; providing a statement of public  
16 necessity; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Paragraph (b) of subsection (6) of section  
21 1005.38, Florida Statutes, is amended to read:

22 1005.38 Actions against a licensee and other penalties.—  
23 (6) The commission may conduct disciplinary proceedings  
24 through an investigation of any suspected violation of this  
25 chapter or any rule of the commission, including a finding of  
26 probable cause and making reports to any law enforcement agency  
27 or regulatory agency.

HB 7167

2010

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

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

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

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

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

HB 7167

2010

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

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