

ENROLLED
HB 7167

2010 Legislature

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:

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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.

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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

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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.