

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 legislative
15 review and repeal of the exemptions under the Open
16 Government Sunset Review Act; providing a statement of
17 public necessity; providing a contingent effective
18 date.

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

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

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

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

11-00589A-11

20111472

30 by a Commission on Ethics and Public Trust established by any
31 county defined in s. 125.011(1) or by any municipality defined
32 in s. 165.031, or by any county or municipality that has
33 established a local investigatory process to enforce more
34 stringent standards of conduct and disclosure requirements as
35 provided in s. 112.326 are confidential and exempt from the
36 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
37 Constitution.

38 (b) Any proceeding conducted by the commission, a
39 Commission on Ethics and Public Trust, or a county or
40 municipality that has established such local investigatory
41 process, pursuant to a complaint, information, or referral as
42 provided in this section, or preliminary investigation, is
43 exempt from the provisions of s. 286.011, s. 24(b), Art. I of
44 the State Constitution, and s. 120.525.

45 (c) 1. The exemptions in paragraphs (a) and (b) apply until
46 the complaint is dismissed as legally insufficient, until the
47 alleged violator requests in writing that such records and
48 proceedings be made public, until the commission determines that
49 it will not investigate the complaint or referral, or until the
50 commission, a Commission on Ethics and Public Trust, or a county
51 or municipality that has established such local investigatory
52 process determines, based on such investigation, whether
53 probable cause exists to believe that a violation has occurred.

54 2. ~~In no event shall~~ A complaint under this part against a
55 candidate in any general, special, or primary election may not
56 be filed and ~~or~~ any intention of filing such a complaint may not
57 be disclosed on the day of any such election or within the 5
58 days immediately preceding the date of the election.

11-00589A-11

20111472

59 3. The confidentiality requirements of this subsection do
60 not prohibit the commission or its staff from sharing
61 investigative information with criminal investigative agencies.

62 (d) This subsection is subject to the Open Government
63 Sunset Review Act in accordance with s. 119.15 and shall stand
64 repealed on October 2, 2016 ~~2015~~, unless reviewed and saved from
65 repeal through reenactment by the Legislature.

66 Section 2. The Legislature finds it a public necessity that
67 the information or referral of an alleged violation of part III
68 of chapter 112, Florida Statutes, the Code of Ethics for Public
69 Officers and Employees, be held confidential and exempt from s.
70 119.07(1), Florida Statutes, and s. 24(a), Article I of the
71 State Constitution until the information or referral is
72 dismissed as legally insufficient, until the alleged violator
73 requests in writing that such records and proceedings be made
74 public, until the Commission on Ethics determines that it will
75 not investigate the complaint or referral, or until the
76 commission or a Commission on Ethics and Public Trust
77 determines, based on such investigation, whether probable cause
78 exists to believe that a violation has occurred. This exemption
79 is necessary because the release of such information could
80 potentially be defamatory to an individual under investigation
81 or cause unwarranted damage to the good name or reputation of
82 such individual. In addition, the Legislature finds it a public
83 necessity that any proceeding conducted by a county or municipal
84 Commission on Ethics and Public Trust pursuant to an information
85 or referral be exempt from s. 286.011, Florida Statutes, s.
86 24(b), Article I of the State Constitution, and s. 120.525,
87 Florida Statutes, so that the administration of such proceeding

11-00589A-11

20111472__

88 is not otherwise significantly impaired. The exemption of these
89 proceedings from public-meetings requirements minimizes the
90 possibility of unnecessary scrutiny by the public or media of
91 individuals under investigation and their families. Furthermore,
92 the Legislature has already recognized the importance of the
93 aforementioned public-records and public-meetings exemptions by
94 exempting the records and meetings of the state Commission on
95 Ethics and those of a Commission on Ethics and Public Trust
96 formed by a county or municipality.

97 Section 3. This act shall take effect July 1, 2011, only if
98 Senate Bill ____ or similar legislation is adopted in the same
99 legislative session or an extension thereof and becomes law.