

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Fasano offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

112.324 Procedures on complaints of violations; public records and meeting exemptions.-

(2) (a) The complaint and records relating to a written the complaint, other determination of legal sufficiency to conduct an investigation of an alleged breach of the public trust as provided under subsection (1), or to a any preliminary investigation held by the commission or its agents, by a Commission on Ethics and Public Trust established by a any county as defined in s. 125.011(1) or a by any municipality as defined in s. 165.031, or by a any county or municipality that

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17 has established a local investigatory process to enforce more
18 stringent standards of conduct and disclosure requirements as
19 provided in s. 112.326 are confidential and exempt from ~~the~~
20 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State
21 Constitution.

22 (b) Any proceeding conducted by the commission, a
23 Commission on Ethics and Public Trust, or a county or
24 municipality that has established such local investigatory
25 process, pursuant to a complaint, other determination that there
26 is an indication of a breach of the public trust as provided in
27 subsection (1), or a preliminary investigation, is exempt from
28 ~~the provisions of~~ s. 286.011, s. 24(b), Art. I of the State
29 Constitution, and s. 120.525.

30 (c) The exemptions in paragraphs (a) and (b) apply until
31 the complaint or other alleged indication of a breach of the
32 public trust is dismissed as legally insufficient; until the
33 alleged violator requests in writing that the such records and
34 proceedings be made public; until the commission determines that
35 it will not investigate the complaint, publicly disseminated
36 information, or referral; or until the commission, a Commission
37 on Ethics and Public Trust, or a county or municipality that has
38 established such local investigatory process determines, based
39 on an such investigation, whether probable cause exists to
40 believe that a violation has occurred. In no event shall a
41 complaint under this part against a candidate in any general,
42 special, or primary election be filed or any intention of filing
43 such a complaint be disclosed on the day of any such election or

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44 within the 5 days immediately preceding the date of the
45 election.

46 (d) The confidentiality requirements of this subsection do
47 not prohibit the commission, a Commission on Ethics and Public
48 Trust, or a county or municipality that has established a local
49 investigatory process from sharing investigative information
50 with a criminal investigative agency.

51 (e)~~(d)~~ This subsection is subject to the Open Government
52 Sunset Review Act in accordance with s. 119.15 and shall stand
53 repealed on October 2, 2018 ~~2015~~, unless reviewed and saved from
54 repeal through reenactment by the Legislature.

55 Section 2. (1) The Legislature finds that it is a public
56 necessity that a determination of legal sufficiency to conduct
57 an investigation of an alleged breach of the public trust under
58 part III of chapter 112, Florida Statutes, the Code of Ethics
59 for Public Officers and Employees, pursuant to publicly
60 disseminated information or a referral from a public official be
61 held confidential and exempt from s. 119.07(1), Florida
62 Statutes, and s. 24(a), Article I of the State Constitution
63 until the Commission on Ethics, a Commission on Ethics and
64 Public Trust, or a county or municipality dismisses such
65 allegation as legally insufficient, determines that it will not
66 conduct an investigation, or determines, based on an
67 investigation, whether probable cause exists to believe that a
68 violation has occurred. This exemption is necessary because the
69 release of information that is subsequently found to be
70 insufficient and without legal basis could potentially be

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71 defamatory to the individual under investigation or cause
72 unwarranted damage to his or her good name or reputation.

73 (2) In addition, the Legislature finds that it is a public
74 necessity that any proceeding conducted by the Commission on
75 Ethics, a Commission on Ethics and Public Trust, or a county or
76 municipality pursuant to publicly disseminated information or a
77 referral from a public official be exempt from s. 286.011,
78 Florida Statutes, s. 24(b), Article I of the State Constitution,
79 and s. 120.525, Florida Statutes, so that the administration of
80 such proceeding is not otherwise significantly impaired. The
81 exemption of these proceedings from public meetings requirements
82 minimizes the possibility of unnecessary scrutiny by the public
83 or media of the individual under investigation and his or her
84 family before there is a determination of probable cause.
85 Furthermore, the Legislature has already recognized the
86 importance of the aforementioned public records and public
87 meetings exemptions by exempting the records and meetings of the
88 Commission on Ethics, a Commission on Ethics and Public Trust,
89 or a county or municipality conducting such a proceeding.

90 Section 3. This act shall take effect July 1, 2013, only
91 if House Bill 233 or similar legislation is adopted in the same
92 legislative session or an extension thereof and becomes law.

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95 **T I T L E A M E N D M E N T**

96 Remove everything before the enacting clause and insert:

97 A bill to be entitled

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98 An act relating to public records and meetings;
99 amending s. 112.324, F.S.; providing an exemption from
100 public records requirements for a determination of
101 legal sufficiency relating to an alleged violation of
102 part III of ch. 112, F.S., the Code of Ethics for
103 Public Officers and Employees; providing an exemption
104 from public meetings requirements for any proceeding
105 relating to such determination; authorizing the
106 Commission on Ethics and its staff to share
107 investigative information with criminal investigative
108 agencies; providing for legislative review and repeal
109 of the exemptions under the Open Government Sunset
110 Review Act; providing a statement of public necessity;
111 providing a contingent effective date.