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1
2 An act relating to public records; amending s.
3 1008.23, F.S.; deleting a duplicative exemption from
4 public records requirements for certain examination
5 and assessment instruments; expanding an exemption
6 from public records requirements for examination and
7 assessment instruments to include such instruments
8 when held by certain entities; requiring the State
9 Board of Education and the Board of Governors to adopt
10 rules and regulations, respectively, governing the
11 retention and disposal process for specified records;
12 deleting a provision requiring the State Board of
13 Education and the Board of Governors to adopt certain
14 rules and regulations, respectively, governing access
15 to records; authorizing specified entities to disclose
16 exempt information to certain entities; requiring
17 specified entities to disclose confidential and exempt
18 information in certain circumstances; providing
19 construction; extending the scheduled repeal of the
20 exemption; providing a statement of public necessity;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 1008.23, Florida Statutes, is amended to
26 read:

27 1008.23 Confidentiality of assessment instruments.—

28 (1) ~~All examination and assessment instruments, including~~
29 ~~developmental materials and workpapers directly related thereto,~~

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30 ~~which are prepared, prescribed, or administered pursuant to ss.~~
31 ~~1002.69, 1003.52, 1003.56, 1007.25, 1007.35, 1008.22, 1008.25,~~
32 ~~and 1012.56 shall be confidential and exempt from s. 119.07(1)~~
33 ~~and s. 24(a), Art. I of the State Constitution. Provisions~~
34 ~~governing access, maintenance, and destruction of such~~
35 ~~instruments and related materials shall be prescribed by rules~~
36 ~~of the State Board of Education.~~

37 ~~(2)~~(a) All examination and assessment instruments,
38 including developmental materials and workpapers directly
39 related thereto, which are held ~~prepared, prescribed, or~~
40 ~~administered~~ by a public school, a district school board, a
41 Florida College System institution, a state university, a board
42 of trustees, or the Department of Education, the State Board of
43 Education, or the Board of Governors shall be confidential and
44 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
45 Constitution.

46 (b) The State Board of Education and the Board of Governors
47 shall adopt rules and regulations, respectively, establishing
48 retention schedules and a disposal process for the records
49 described in paragraph (a) ~~Provisions governing access,~~
50 ~~maintenance, and destruction of the instruments and related~~
51 ~~materials identified under paragraph (a) shall be prescribed by~~
52 ~~rules of the State Board of Education and regulations of the~~
53 ~~Board of Governors, respectively.~~

54 (c)1. An entity listed in paragraph (a) may disclose the
55 information made confidential and exempt from public records
56 inspection and copying requirements by this section to any other
57 entity listed in that paragraph.

58 2. A public school, district school board, Florida College

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59 system institution, or state university must, upon request,
60 disclose the information made confidential and exempt from
61 public records inspection and copying requirements by this
62 section to the Department of Education, the State Board of
63 Education, or the Board of Governors.

64 (d) Nothing in this section shall be construed to limit,
65 abridge, or infringe on the rights of students and parents with
66 respect to student records and education records pursuant to ss.
67 1002.20 and 1002.22.

68 (2)(3) This section is subject to the Open Government
69 Sunset Review Act in accordance with s. 119.15 and shall stand
70 repealed on October 2, 2031 2026, unless reviewed and saved from
71 repeal through reenactment by the Legislature.

72 Section 2. The Legislature finds that it is a public
73 necessity that examination and assessment instruments, including
74 developmental materials and workpapers directly related thereto,
75 which are held by a public school, a district school board, a
76 Florida College System institution, a state university, a board
77 of trustees, the Department of Education, the State Board of
78 Education, or the Board of Governors be made confidential and
79 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
80 Article I of the State Constitution. Public schools and district
81 school boards routinely develop, license, and administer
82 recurring classroom, course, school, and district assessments,
83 frequently drawing upon secure item banks and developmental
84 materials used across schools and administrations. Public
85 disclosure of test items, prompts, answer keys, scoring rubrics,
86 item specifications, field-testing materials, and related
87 developmental workpapers would enable cheating and academic

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88 dishonesty, compromise the validity and reliability of local
89 assessments, undermine fair measurement of student learning and
90 program effectiveness, and necessitate significant public
91 expenditures to replace compromised instruments and rebuild
92 secure item banks. The boards of trustees of Florida College
93 System institutions and universities as well the State Board of
94 Education and the Board of Governors oversee institutions that
95 develop, license, and administer examinations and assessment
96 instruments and in that role receive such information, which, if
97 made public, would enable cheating and academic dishonesty,
98 compromise the validity and reliability of examinations and
99 assessments, undermine fair measurement of student learning and
100 program effectiveness, and necessitate significant public
101 expenditures to replace compromised instruments and rebuild
102 secure item banks. As such, the Legislature finds that the harm
103 that may result from the release of such examination and
104 assessment instruments outweighs any public benefit that may be
105 derived from disclosure.

106 Section 3. This act shall take effect upon becoming a law.