

Committee Substitute for Senate Bill No. 1922

An act relating to public-records and public-meetings exemptions; amending s. 112.324, F.S.; providing an exemption from public-records requirements for a complaint of an alleged violation of part III of chapter 112, F.S., the Code of Ethics for Public Officers and Employees, or any other alleged breach of the public trust within the jurisdiction of a Commission on Ethics and Public Trust established by a municipality and records relating to such complaint or to any preliminary investigation held by the commission; providing an exemption from public-meetings requirements for any proceeding conducted by the commission pursuant to such complaint or preliminary investigation; providing conditions for termination of the exemptions; providing for review and repeal under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

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 the complaint or to any preliminary investigation held by the commission or its agents or by a Commission on Ethics and Public Trust established by any county defined in s. 125.011(1) or by any municipality defined in s. 165.031, are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and any proceeding conducted by the commission or a Commission on Ethics and Public Trust, pursuant to a complaint or preliminary investigation, is exempt from the provisions of s. 286.011, s. 24(b), Art. I of the State Constitution, and s. 120.525, until the complaint is dismissed as legally insufficient, until the alleged violator requests in writing that such records and proceedings be made public, or until the commission or a Commission on Ethics and Public Trust determines, based on such investigation, whether probable cause exists to believe that a violation has occurred. In no event shall a complaint under this part against a candidate in any general, special, or primary election be filed or any intention of filing such a complaint be disclosed on the day of any such election or within the 5 days immediately preceding the date of the election.

(b) Paragraph (a) is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds it a public necessity that the complaint and records relating to the complaint of an alleged violation of part III of

chapter 112, Florida Statutes, the Code of Ethics for Public Officers and Employees, or any other alleged breach of the public trust within the jurisdiction of a Commission on Ethics and Public Trust established by any municipality, and records relating to any preliminary investigation of such complaint, be held confidential and exempt from section 119.07(1), Florida Statutes, and Section 24(a), Article I of the State Constitution until the complaint is dismissed as legally insufficient, until the alleged violator requests in writing that such records and proceedings be made public, or until the commission or a Commission on Ethics and Public Trust determines, based on such investigation, whether probable cause exists to believe that a violation has occurred. This exemption is necessary because the release of such information could potentially be defamatory to an individual under investigation or cause unwarranted damage to the good name or reputation of such individual. In addition, the Legislature finds it a public necessity that any proceeding conducted by a municipal Commission on Ethics and Public Trust pursuant to a complaint or preliminary investigation of such alleged violation be exempt from section 286.011, Florida Statutes, Section 24(b), Article I of the State Constitution, and section 120.525, Florida Statutes, so that the administration of such proceeding by a municipal commission on ethics is not otherwise significantly impaired. The exemption of these proceedings from public meetings requirements minimizes the possibility of unnecessary scrutiny by the public or media of individuals under investigation and their families, and creates a secure environment in which a municipal commission on ethics may conduct its business. Furthermore, the Legislature has already recognized the importance of the aforementioned public records and meetings exemptions by exempting the records and meetings of the state Commission on Ethics and those of a Commission on Ethics and Public Trust formed by a county.

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

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.