

Senate Bill No. 40-B

An act relating to public-records and public-meetings exemptions for lobbying; amending s. 112.3215, F.S.; creating a public-records exemption for records relating to an audit of a lobbying firm lobbying the executive branch or the Constitution Revision Commission or an investigation of violations of the lobbying compensation reporting laws for the executive branch or the Constitution Revision Commission; creating a public-meetings exemption for discussions of such records; providing for release of the records under specified conditions; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Paragraph (d) is added to subsection (8) of section 112.3215, Florida Statutes, as amended by Senate Bill 6-B, 2005 Special Session B, or similar legislation adopted in the same legislative session or an extension thereof, to read:

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(8)

(d) Records relating to an audit conducted pursuant to this section or an investigation conducted pursuant to this section or s. 112.32155 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and any meetings held pursuant to such an investigation or at which such an audit is discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution either until the lobbying firm requests in writing that such investigation and associated records and meetings be made public or until the commission determines there is probable cause that the audit reflects a violation of the reporting laws. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2011, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that records relating to an audit of a lobbying firm lobbying the executive branch or the Constitution Revision Commission or an investigation of violations of the lobbying compensation reporting laws for the executive branch or the Constitution Revision Commission be made confidential and exempt from public-records requirements and that meetings held pursuant to such an investigation or at which such an audit is discussed be made exempt from public-meetings requirements until the alleged violator requests in writing that such records and meetings be made public or the Commission on Ethics determines there is probable cause that the audit reflects a violation of the

reporting laws. The disclosure of such records could injure a lobbying firm in the marketplace by providing its competitors with detailed insights into the financial status of the firm, thereby diminishing the advantage that the lobbying firm maintains over those who do not possess such records. Disclosure would create an economic disadvantage for the lobbying firm. In addition, the public release of such records through either a public-records request or a public meeting could cause unwarranted damage to the good name and business reputation of a lobbying firm if a violation of the reporting laws is found not to exist. Further, making such records available to the public could encumber the commission's ongoing investigation and its ability to gather pertinent information crucial to determining whether a violation of the executive lobbying compensation reporting laws exists. The harm to a lobbying firm in the marketplace and to the effective administration of the investigation and audit processes caused by the public disclosure of such records far outweighs the public benefits derived from its release.

Section 3. This act shall take effect on January 1, 2006, if Senate Bill 6-B or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

Approved by the Governor December 20, 2005.

Filed in Office Secretary of State December 20, 2005.