

Committee Substitute for House Bill No. 895

An act relating to public records; amending s. 1008.24, F.S.; providing an exemption from public records requirements for personally identifiable information or allegations of misconduct obtained or reported in connection with an investigation of a testing impropriety conducted by the Department of Education; providing that the exemption applies until the investigation is concluded or becomes inactive; providing for future legislative review and repeal of the exemption 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 (3) of section 1008.24, Florida Statutes, is amended to read:

1008.24 Test security.—

(3)(a) A district school superintendent, a president of a public postsecondary educational institution, or a president of a nonpublic postsecondary educational institution shall cooperate with the Commissioner of Education in any investigation concerning the administration of a test administered pursuant to state statute or rule.

(b) The identity of a school or postsecondary educational institution, the personally identifiable information of any personnel of any school district or postsecondary educational institution, or any specific allegations of misconduct obtained or reported pursuant to an investigation conducted by the Department of Education of a testing impropriety are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the conclusion of the investigation or until such time as the investigation ceases to be active. For the purpose of this paragraph, an investigation shall be deemed concluded upon a finding that no impropriety has occurred, upon the conclusion of any resulting preliminary investigation pursuant to s. 1012.796, upon the completion of any resulting investigation by a law enforcement agency, or upon the referral of the matter to an employer who has the authority to take disciplinary action against an individual who is suspected of a testing impropriety. For the purpose of this paragraph, an investigation shall be considered active so long as it is ongoing and there is a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2014, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that certain records related to the investigation of a testing impropriety that are held by the Department of Education be made confidential and exempt from public records requirements until an investigation conducted by the department is

concluded or until such investigation becomes inactive. The decisions relating to accountability and to testing in Florida are of statewide interest, and there is a strong public interest in the circumstances surrounding an investigation of a testing impropriety, including the identity of a school or postsecondary educational institution and the actions by teachers, administrators, paraprofessionals, or other individuals, which must be uncovered through a comprehensive investigation that may involve statistical and other analyses. The release of information before an investigation is concluded may reveal sensitive or personal information that could cause unwarranted damage to the names or reputations of the individuals involved.

Section 3. This act shall take effect July 1, 2009.

Approved by the Governor June 10, 2009.

Filed in Office Secretary of State June 10, 2009.