

CHAPTER 2010-77

House Bill No. 7167

An act relating to a review under the Open Government Sunset Review Act; amending s. 1005.38, F.S., which provides an exemption from public records requirements for investigatory records held by the Commission for Independent Education and an exemption from public meetings requirements for a probable cause panel wherein exempt information is discussed; reorganizing the exemption; requiring a recording for any portion of a closed meeting of a probable cause panel; providing a public records exemption for the recording of a closed meeting of a probable cause panel and the minutes and findings of the meeting; providing for limited duration of the exemption; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (b) of subsection (6) of section 1005.38, Florida Statutes, is amended to read:

1005.38 Actions against a licensee and other penalties.—

(6) The commission may conduct disciplinary proceedings through an investigation of any suspected violation of this chapter or any rule of the commission, including a finding of probable cause and making reports to any law enforcement agency or regulatory agency.

(b)1. All investigatory records held by the commission in conjunction with an investigation conducted pursuant to this subsection, ~~including minutes and findings of an exempt probable cause panel meeting convened in conjunction with such investigation,~~ are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a period not to exceed 10 days after the panel makes a determination regarding probable cause.

2.a. Those portions of meetings of the probable cause panel at which records made exempt pursuant to subparagraph 1. are discussed are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. The closed portion of a meeting must be recorded and no portion of the closed meeting may be off the record. The recording shall be maintained by the commission.

b. The recording of a closed portion of a meeting and the minutes and findings of such meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a period not to exceed 10 days after the panel makes a determination regarding probable cause.

3. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2015

2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity to make exempt from public records requirements recordings of any portion of a closed meeting of a probable cause panel of the Commission for Independent Education and the minutes and findings of the meeting. Release of such recordings, minutes, or findings would compromise those discussions of the commission members which took place during a closed meeting, thus negating the public meetings exemption. In addition, the temporary nature of the public records exemption for the recording of a closed meeting of the probable cause panel ensures that public oversight is provided.

Section 3. This act shall take effect October 1, 2010.

Approved by the Governor May 11, 2010.

Filed in Office Secretary of State May 11, 2010.