

Committee Substitute for  
Committee Substitute for Senate Bill No. 3006

An act relating to public records; creating s. 106.0706, F.S.; creating an exemption from public-records requirements for user identification and passwords held by the Department of State pursuant to s. 106.0705, F.S.; creating an exemption from public records requirements for records, reports, and files stored in the electronic filing system pursuant to s. 106.0705, F.S.; providing for expiration of the exemption; providing for future legislative review and repeal; providing findings of public necessity; providing an effective date.

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

Section 1. Section 106.0706, Florida Statutes, is created to read:

106.0706 Electronic filing of campaign finance reports; confidentiality of information and draft reports.—All user identifications and passwords held by the Department of State pursuant to s. 106.0705 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. All records, reports, and files stored in the electronic filing system pursuant to s. 106.0705 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the report has been submitted as a filed report. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity to exempt from public-records requirements all user identifications and passwords held by the Department of State pursuant to section 106.0705, Florida Statutes, as created in CS for Senate Bill 3004 or similar legislation. The public-records exemption is necessary to ensure accountability for the filing of false or inaccurate information. Under current law, certain individuals, typically the candidate and campaign treasurer or the chair of a committee or group and its treasurer, must certify and bear responsibility for the correctness of each campaign finance report filed with the Division of Elections under pain of personal criminal prosecution or administrative fine. The law uses the physical signatures of such individuals on the paper campaign finance reports as evidence of attestation to the veracity of the report. Electronic reporting eliminates the evidentiary advantages of hard-copy signatures by persons submitting reports, so the provisions of law creating the electronic filing system provide for the issuance of secure “sign-on” information to the individuals designated, and provides that such individuals are responsible for all filing using such “sign-on” credentials unless they have notified the division that their credentials have been compromised. Without a public-records exemption for this information, there would be no accountability for campaign finance reporting.

(2) In addition, the public-records exemption is necessary to protect against the unwarranted submission of false or erroneous campaign finance data. Limiting access to the electronic filing system will prevent unauthorized users from changing or submitting false or inaccurate information that could be damaging to the reporting individual or group and result in charges being brought against the individuals accountable by statute for the veracity of the information.

(3) The Legislature also finds that it is a public necessity to exempt from public-records requirements all records, reports, and files created from information entered into the electronic filing system by individuals and groups subject to electronic campaign finance reporting requirements until such time as a final report is due pursuant to law. It is anticipated that best practices would encourage periodic and timely updates to the draft report throughout the covered reporting period and this exemption would allow reporting individuals and groups adequate time to enter all the information. Campaign finance reports can contain hundreds or even thousands of individual entries for items such as dates, names, amounts of contributions, and expenditures. It is simply not technologically or practically feasible to require all this information to be manually input on the designated statutory due date. The public-records exemption will allow reporting individuals and groups to update the information in their draft reports throughout the reporting period and subject the reports to internal audits to check for errors prior to submission. The updated report for the entire reporting period can then be submitted as required by law.

(4) The public-records exemption is also essential because it protects reporting individuals and groups from exposing their campaign finance strategies to opponents who could use the reported information to their advantage. For example, a large inflow of contributions to a candidate's campaign during a reporting period could indicate that the candidate is positioning himself or herself for a large media buy to run political advertisements. An opponent of the candidate could frustrate this intention by purchasing desirable media slots first.

(5) Finally, this public-records exemption will accelerate the public's access to this information compared with current law, which allows for the filing of paper reports by mail on the designated due date and results in both mailing and data entry delays in processing the information to the Internet. Under current law, in many cases, crucial campaign finance information contained in reports due on the 4th day before an election is never disclosed to the public until after the election is over. The electronic campaign filing system, with the public-records exemption in place, will eliminate these delays and provide this crucial data to the electorate before election day.

Section 3. This act shall take effect upon becoming a law if CS for Senate Bill 3004, or similar legislation creating section 106.0705, Florida Statutes, to provide for electronic filing of campaign treasurer's reports, is adopted in the same legislative session or an extension thereof and becomes law.

Approved by the Governor May 26, 2004.

Filed in Office Secretary of State May 26, 2004.