

By Senator Margolis

35-856A-04

1 A bill to be entitled
2 An act relating to public records; providing an
3 exemption from public-records requirements for
4 a manuscript or other archival material donated
5 to and held by an official archive of a
6 municipality or county and subject to special
7 terms and conditions that limit the right to
8 copy or inspect the manuscript or material;
9 requiring that such a manuscript or other
10 archival material be made available for
11 inspection and copying after a specified period
12 or pursuant to court order; providing for
13 future legislative review and repeal; providing
14 a finding of public necessity; providing an
15 effective date.

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

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19 Section 1. Manuscripts or other archival material;
20 public records exemption.--

21 (1) A manuscript or other archival material that is
22 donated to and held by an official archive of a municipality
23 or county contingent upon special terms and conditions that
24 limit the right to inspect or copy such manuscript or other
25 material, but which manuscript or archival material is not
26 otherwise made or received pursuant to law or ordinance or in
27 connection with the transaction of official business by any
28 governmental agency, is confidential and exempt from section
29 119.07(1), Florida Statutes, and Section 24(a), Article I of
30 the State Constitution, except as otherwise provided in the
31 special terms and conditions. However, a manuscript or other

1 archival material received under special terms and conditions
2 as provided by this section shall be made available for
3 inspection and copying 50 years after the date of the creation
4 of the manuscript or other archival material, at an earlier
5 date specified in the special terms or conditions, or upon a
6 showing of good cause before a court of competent
7 jurisdiction.

8 (2) Subsection (1) is subject to the Open Government
9 Sunset Review Act of 1995 in accordance with section 119.15,
10 Florida Statutes, and shall stand repealed on October 2, 2009,
11 unless reviewed and saved from repeal through reenactment by
12 the Legislature.

13 Section 2. The Legislature finds that it is a public
14 necessity to make certain donated manuscripts and other
15 archival material held by an official archive of a
16 municipality or county exempt from public disclosure. The
17 Legislature finds that a municipal or county archive is often
18 designated as the repository for manuscripts or other material
19 of a private individual. Except for the deposit of these
20 manuscripts or material in an official archive of a
21 municipality or county, such manuscripts and material are not
22 otherwise made or received pursuant to law or ordinance or in
23 connection with the transaction of official business by any
24 governmental agency, and would not be in the possession of a
25 governmental agency except for the donation of the private
26 person. Nevertheless, such manuscript or other material may be
27 of important historical interest to the municipality or
28 county, and therefore should be preserved in the public
29 interest. The diaries of prominent historical figures,
30 manuscripts of important writers, and personal effects of
31 significant persons are examples of the types of archival

1 material that could be placed in an official municipal or
2 county archive. A private donor often makes the donation of
3 such manuscripts or other material contingent upon special
4 terms and conditions in order to protect private facts during
5 the lifetime of the donor or during the lifetime of another
6 person. If a municipal or county archive is unable to comply
7 with the special terms and conditions, a potential donor would
8 be unlikely to donate manuscripts or other material that is of
9 significant archival value to the municipality or county. As a
10 result, important historical information could be lost to the
11 public. While the receipt of such manuscripts or other
12 archival material is in the public interest, the Legislature
13 also finds that special terms and conditions should not
14 forever preclude the ability of the public to inspect and copy
15 such manuscripts or other archival material. The Legislature
16 finds that the interests of the donor and the public are
17 protected by limiting such special terms and conditions to 50
18 years following the date of the creation of the manuscript or
19 other material. Such a limitation helps to protect private
20 facts during the lifetime of an affected person and ensures
21 the preservation of manuscripts and material beneficial to the
22 public, while ultimately preserving public access.

23 Section 3. This act shall take effect October 1, 2004.
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SENATE SUMMARY

Provides an exemption from the public records law for manuscripts or other archival material donated to and held by an official archive of a municipality or county if the manuscripts or material are subject to special terms and conditions that limit public disclosure. Requires that such a manuscript or material be made available for inspection and copying 50 years after the date of creation of the manuscript or material or pursuant to court order. Provides for future legislative review and repeal under the Open Government Sunset Review Act of 1995.