

1 **DRAFT PREPARED BY LEGISLATIVE COUNCIL**

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9 **A BILL**

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11 TO AMEND SECTION 30-4-40, CODE OF LAWS OF SOUTH
12 CAROLINA, 1976, RELATING TO EXEMPTIONS FROM THE
13 FREEDOM OF INFORMATION ACT, SO TO REMOVE
14 EXISTING EXEMPTIONS FOR MEMBERS OF THE
15 GENERAL ASSEMBLY AND THEIR IMMEDIATE STAFF,
16 AND TO INSTEAD ONLY PROVIDE A LIMITED
17 EXEMPTION FOR DRAFTS OF POTENTIAL ORDINANCES,
18 LEGISLATION, AMENDMENTS TO LEGISLATION, AND
19 RELATED DEVELOPMENTAL DOCUMENTS IN THE
20 POSSESSION OF ANY INDIVIDUAL ELECTED OR
21 APPOINTED OFFICIAL OR HIS STAFF; TO PROVIDE AN
22 EXEMPTION FOR WRITTEN OR ELECTRONIC
23 CORRESPONDENCE FROM A MEMBER OF THE PUBLIC;
24 AND TO PROVIDE THAT NEITHER OF THESE
25 EXEMPTIONS LIMIT OR RESTRICT PUBLIC ACCESS TO
26 SOURCE DOCUMENTS OR RECORDS, FACTUAL DATA OR
27 SUMMARIES OF FACTUAL DATA, PAPERS, MINUTES, OR
28 REPORTS OTHERWISE CONSIDERED TO BE PUBLIC
29 INFORMATION UNDER THESE PROVISIONS.

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31 Be it enacted by the General Assembly of the State of South
32 Carolina:

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34 SECTION 1. Section 30-4-40(a)(8) of the 1976 Code is amended
35 to read:

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37 ~~“(8) Memoranda, correspondence, and working papers in the~~
38 ~~possession of individual members of the General Assembly or their~~
39 ~~immediate staffs; however, nothing herein may be construed as~~
40 ~~limiting or restricting public access to source documents or~~
41 ~~records, factual data or summaries of factual data, papers, minutes,~~
42 ~~or reports otherwise considered to be public information under the~~

1 ~~provisions of this chapter and not specifically exempted by any~~
2 ~~other provisions of this chapter (A) Memoranda, correspondence,~~
3 ~~and other working papers of an individual elected or appointed~~
4 ~~public official or a member of his immediate staff that are:~~

5 (i) ~~in the possession of the individual elected or appointed~~
6 ~~public official or a member of his immediate staff; and~~

7 (ii) ~~internally created deliberative precursors to legislation~~
8 ~~an amendment to introduced legislation, or an ordinance, meaning~~
9 ~~they pertain to the work of the elected or appointed public official~~
10 ~~and his staff in developing, drafting, or evaluating potential~~
11 ~~legislation, amendments to introduced legislation, or ordinances.~~
12 ~~Once an ordinance or piece of legislation is given first reading or is~~
13 ~~otherwise formally introduced in the body in which the elected or~~
14 ~~appointed public official serves, any subsequent communications~~
15 ~~of the elected or appointed public official or his staff about the~~
16 ~~ordinance or legislation are not exempt from disclosure by the~~
17 ~~provisions of this item. Once an amendment has been introduced in~~
18 ~~the body or a committee of the body in which the elected or~~
19 ~~appointed official serves, any subsequent communications of the~~
20 ~~elected or appointed official or his staff about the amendment are~~
21 ~~not exempt from disclosure by the provisions of this item.~~

22 (B) ~~Nothing in this item may be construed as limiting or~~
23 ~~restricting public access to source documents or records, factual~~
24 ~~data or summaries of factual data, papers, minutes, or reports~~
25 ~~otherwise considered to be public information under the provisions~~
26 ~~of this chapter and not specifically exempted by any other~~
27 ~~provisions of this chapter.”~~

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29 SECTION 2. Section 30-4-40(a) of the 1976 Code is amended by
30 adding an appropriately numbered item at the end to read:

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32 “() (A) Written or electronic correspondence sent to an
33 individual public official from an individual member of the public,
34 except for:

35 (i) a lobbyists or a lobbyist’s principal;
36 (ii) another public official or a member of their immediate
37 staff; and

38 (iii) entities such as public and private corporations,
39 partnerships, and associations, whether organized as profit-seeking
40 or not-for-profit.

41 (B) This exemption does not apply to written or electronic
42 correspondence that the individual public official makes in
43 response.

