



Post-Secondary Education Subcommittee

March 13, 2017

1:00 PM

Mashburn Hall (306 HOB)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Post-Secondary Education Subcommittee

Start Date and Time: Monday, March 13, 2017 01:00 pm

End Date and Time: Monday, March 13, 2017 04:00 pm

Location: Mashburn Hall (306 HOB)

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 351 Pub. Rec. and Meetings/Postsecondary Education Executive Search by Rommel

HB 501 Pub. Rec. and Meetings/Information Technology/Postsecondary Education Institutions by Leek

HB 859 Postsecondary Distance Education by Mariano

HB 1079 Pub. Rec. and Meetings/Comprehensive Emergency Management Plan for Public Postsecondary Institutions by Rommel

NOTICE FINALIZED on 03/09/2017 4:20PM by Juszczuk.Erin

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 351 Pub. Rec. and Meetings/Postsecondary Education Executive Search

SPONSOR(S): Rommel and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 478

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee		McAlarney DM	Bishop HRB
2) Oversight, Transparency & Administration Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill creates an exemption from public record and public meeting requirements for information associated with the applicant recruitment process and discussions associated with the applicant search for certain state university and Florida College System (FCS) institution employees. Specifically, the bill provides that any personal identifying information of an applicant for president, provost, or dean of any state university or FCS institution is confidential and exempt from public record requirements. It also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president, provost, or dean of any state university or FCS institution.

The bill provides instances when the public meeting exemption does not apply. In addition, it provides that the names of any applicants who comprise a final group of applicants must be released by the state university or FCS institution no later than 10 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. All documents containing personal identifying information of any applicants who comprise a final group of applicants become subject to public record requirements when the applicants' names are released.

The bill provides for repeal of the section on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The bill does not appear to have a fiscal impact on state or local governments.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a public record and public meeting exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Public Record and Public Meeting Exemptions

The Legislature, however, may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.⁵

Furthermore, the Open Government Sunset Review Act⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;

¹ Section 286.011(1), F.S.

² *Ibid.*

³ Section 286.011(6), F.S.

⁴ Section 286.011(2), F.S.

⁵ Art. I, s. 24(c), Fla. Const.

⁶ Section 119.15, F.S.

- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protects trade or business secrets.

Search Committees

Oftentimes, when looking to fill a vacant president, provost, or dean position, state universities and Florida College System (FCS) institutions⁷ establish a search committee, which may be comprised of members from an institution's board of trustees, faculty or student representatives, members of the community, a member from the Board of Governors or State Board of Education, and other potentially interested persons. The purpose of the committee is to locate qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position.⁸

The search committee often retains the services of a consulting firm for the purpose of conducting the search for a president or provost. It is typical for the consultant to make the initial contact with a potential applicant to determine if the person is interested in applying to fill the vacancy at the state university or FCS institution.

Information obtained by a search committee or consultant, including applications and other information gathered by a committee or consultant regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process, including vetting of applicants, are open to the public.⁹

Effect of Proposed Changes

The bill creates an exemption from public record requirements for information associated with the applicant recruitment process and an exemption from public meeting requirements for discussions associated with the applicant search.

Specifically, the bill provides that any personal identifying information of an applicant for president, provost, or dean of any state university or FSC institution is confidential and exempt¹⁰ from public record requirements.

The bill also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president, provost, or dean of any state university or FCS institution. It provides that the public meeting exemption does not apply to a meeting held for the purpose of establishing qualifications of potential applicants or any compensation framework to be offered to potential applicants; however, any portion of such meeting that would disclose personal identifying information of an applicant or potential applicant is exempt from public meeting requirements.

⁷ The Board of trustees for a FCS institution is charged with appointing an institution president and may appoint a search committee for this purpose. Section 1001.64(19), F.S.

⁸ The Board of Governors must confirm the selected candidate for president of a state university Section 1001.706(6)(a), F.S.

⁹ FCS institutions and state universities are considered state agencies, subject to public records and public meetings laws. See *Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983) (holding that a University of Florida screening committee was subject to Florida's Sunshine Law); *Rhea v. District Bd. Of Trustees of Santa Fe College*, 2013 WL 950544 at 3, n. 1 (Fla. 1st DCA 2013) (noting that Santa Fe College, as part of the Florida College System, is a state agency having a duty to provide access to public records).

¹⁰ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62 (August 1, 1985).

Any meeting or interview held after a final group of applicants has been established and held for the purpose of making a final selection to fill the position of president, provost, or dean is subject to public meeting requirements. In addition, the names of any applicants who comprise a final group of applicants must be released by the state university or FCS institution no later than 10 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. All documents containing personal identifying information of any applicants who comprise a final group of applicants become subject to public record requirements when the applicants' names are released.

The bill provides that the section is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.097, F.S., to provide public record and public meeting exemptions associated with a search conducted by a state university or FCS institution for the purpose of identifying or vetting applicants for president, provost, or dean.

Section 2. Provides a statement of public necessity as required by the State Constitution.

Section 3. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill likely could create a minimal fiscal impact on state universities and FCS institutions, because staff responsible for complying with public record requests could require training related to creation of the public record exemption. In addition, state universities and FCS institutions could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the universities and institutions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for any personal identifying information of an applicant for president, provost, or dean of any state university or FCS institution, in addition to a public meeting exemption for any meetings wherein such information is discussed or such applicants are vetted. The exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish the stated purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to public records and public meetings;
3 creating s. 1004.097, F.S.; providing an exemption
4 from public records requirements for any personal
5 identifying information of an applicant for president,
6 provost, or dean of a state university or Florida
7 College System institution; providing an exemption
8 from public meeting requirements for any meeting held
9 for the purpose of identifying or vetting applicants
10 for president, provost, or dean of a state university
11 or Florida College System institution and for any
12 portion of a meeting held for the purpose of
13 establishing qualifications of, or any compensation
14 framework to be offered to, such potential applicants
15 that would disclose personal identifying information
16 of an applicant or potential applicant; providing for
17 applicability; requiring release of the names of
18 specified applicants within a certain timeframe;
19 providing for future legislative review and repeal of
20 the exemptions; providing a statement of public
21 necessity; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:
24

25 Section 1. Section 1004.097, Florida Statutes, is created
 26 to read:

27 1004.097 Information identifying applicants for president,
 28 provost, or dean at state universities and Florida College
 29 System institutions; public records exemption; public meeting
 30 exemption.

31 (1) Any personal identifying information of an applicant
 32 for president, provost, or dean of a state university or Florida
 33 College System institution is confidential and exempt from s.
 34 119.07(1) and s. 24(a), Art. I of the State Constitution.

35 (2) Any meeting held for the purpose of identifying or
 36 vetting applicants for president, provost, or dean of a state
 37 university or Florida College System institution is exempt from
 38 s. 286.011 and s. 24(b), Art. I of the State Constitution. This
 39 exemption does not apply to a meeting held for the purpose of
 40 establishing qualifications of potential applicants or any
 41 compensation framework to be offered to potential applicants.
 42 However, any portion of such a meeting that would disclose
 43 personal identifying information of an applicant or potential
 44 applicant is exempt from s. 286.011 and s. 24(b), Art. I of the
 45 State Constitution.

46 (3) Any meeting or interview held after a final group of
 47 applicants has been established and held for the purpose of
 48 making a final selection to fill the position of president,
 49 provost, or dean of a state university or Florida College System

50 institution is subject to the provisions of s. 286.011 and s.
 51 24(b), Art. I of the State Constitution.

52 (4) The names of applicants who comprise a final group of
 53 applicants pursuant to subsection (3) must be released by the
 54 state university or Florida College System institution no later
 55 than 10 days before the date of the meeting at which final
 56 action or vote is to be taken on the employment of the
 57 applicants.

58 (5) Any personal identifying information of applicants who
 59 comprise a final group of applicants pursuant to subsection (3)
 60 become subject to the provisions of s. 119.07(1) and s. 24(a),
 61 Art. I of the State Constitution at the time the names of such
 62 applicants are released pursuant to subsection (4).

63 (6) This section is subject to the Open Government Sunset
 64 Review Act in accordance with s. 119.15 and shall stand repealed
 65 on October 2, 2022, unless reviewed and saved from repeal
 66 through reenactment by the Legislature.

67 Section 2. The Legislature finds that it is a public
 68 necessity that any personal identifying information of an
 69 applicant for president, provost, or dean of a state university
 70 or Florida College System institution be made confidential and
 71 exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I
 72 of the State Constitution. It is also the finding of the
 73 Legislature that any meeting held for the purpose of identifying
 74 or vetting applicants for president, provost, or dean of a state

75 university or Florida College System institution and any portion
 76 of a meeting held for the purpose of establishing qualifications
 77 of, or any compensation framework to be offered to, such
 78 potential applicants that would disclose personal identifying
 79 information of an applicant or potential applicant be made
 80 exempt from s. 286.011, Florida Statutes, and s. 24(b), Art. I
 81 of the State Constitution. The task of filling the position of
 82 president, provost, or dean within a state university or Florida
 83 College System institution is often conducted by an executive
 84 search committee. Many, if not most, applicants for such a
 85 position are currently employed at another job at the time they
 86 apply and could jeopardize their current positions if it were to
 87 become known that they were seeking employment elsewhere. These
 88 exemptions from public records and public meeting requirements
 89 are needed to ensure that such a search committee can avail
 90 itself of the most experienced and desirable pool of qualified
 91 applicants from which to fill the position of president,
 92 provost, or dean of a state university or Florida College System
 93 institution. If potential applicants fear the possibility of
 94 losing their current jobs as a consequence of attempting to
 95 progress along their chosen career path or simply seeking
 96 different and more rewarding employment, failure to have these
 97 safeguards in place could have a chilling effect on the number
 98 and quality of applicants available to fill the position of

99 president, provost, or dean of a state university or Florida
100 College System institution.

101 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 501 Pub. Rec. and Meetings/Information Technology/Postsecondary Education Institutions

SPONSOR(S): Leek and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee		McAlarney <i>DM</i>	Bishop <i>HRB</i>
2) Oversight, Transparency & Administration Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

Currently, records containing or meetings discussing data or information from technology systems owned, contracted, or maintained by a state university are not exempted from Florida's Open Meeting and Public Records laws. Therefore, a state university is vulnerable to the forced disclosure of records or information that could potentially compromise the confidentiality, integrity, and availability of a state university's information technology system which contain highly sensitive student, medical, research, and other personal data.

HB 501 creates section 1004.055, F.S., which:

- Exempts data or information from technology systems owned, contracted, or maintained by a state university or Florida College System (FCS) institution from Public Records Laws;
- Exempts from Open Meeting laws, public meetings or portions of public meetings revealing data or information from technology systems owned, contracted, or maintained by a state university or FCS institution;
- Requires an exempt portion of a public meeting be recorded, transcribed and exempt from disclosure; and
- Specifies when and to whom exempt records may be released.

The bill provides for repeal of the section on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The bill does not appear to have a fiscal impact on state or local governments.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a public record and public meeting exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Public Record and Public Meeting Exemptions

The Legislature, however, may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.⁵

Furthermore, the Open Government Sunset Review Act⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or

¹ Section 286.011(1), F.S.

² *Ibid.*

³ Section 286.011(6), F.S.

⁴ Section 286.011(2), F.S.

⁵ Art. I, s. 24(c), Fla. Const.

⁶ Section 119.15, F.S.

- Protects trade or business secrets.

State Universities and Florida College System Institutions

Records and meetings held by state universities and Florida College System institutions regarding information security incidents, such as investigations into security breaches, security technologies, processes and practices as well as security risk assessments are currently subject to Florida open records laws.^{7,8} Public disclosure of this information presents a significant security risk and would reveal weaknesses within the State University System and Florida College System computer networks, raising the potential for exploitation.

Section 282.318, F.S., exempts from Open Meeting and Public Records laws data and information from technology systems owned, contracted, or maintained by a state agency.

However, state universities and university boards of trustees are specifically excluded from the definition of “state agency”. Section 282.318 (2), F.S. defines “state agency” as having the same meaning as provided in s. 282.0041, Florida Statutes. State agency is defined in s. 282.0041 (23) as meaning:

[A]ny official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission. The term does not include university boards of trustees or state universities. ...

Therefore, a state university is vulnerable to the disclosure of records or information that could potentially compromise the confidentiality, integrity, and availability of a state university’s information technology system which contain highly sensitive student, medical, research, and other personal data.⁹

Florida College System records at the state level, as part of the Department of Education, are protected under s. 282.318, F.S., but it is unclear the extent to which individual colleges and their boards of trustees are protected under current law.

Effect of Proposed Changes

The bill amends Florida public records disclosure laws to protect data and records pertaining to the security of the State University System and Florida College System information networks from disclosure. Certain enumerated forms of information held by relevant academic institutions in the State of Florida related to information technology security and potential breaches of security, as well as risk assessments, evaluations, and audits, are confidential and will be exempt from disclosure, including:

- Records held by the university or college which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, if the disclosure of such records would facilitate unauthorized access to or the unauthorized modification, disclosure, or destruction of data or information, whether physical or virtual, or information technology resources; and
- Those portions of risk assessments, evaluations, external and internal audits, and other reports of the university’s or institution’s information technology security program for its data, information, and information technology resources which are held by the university or institution. These records would be exempt if their disclosure would lead to the unauthorized access to or modification, disclosure, or destruction of the data, information, or information technology resources.

⁷ FLA. CONST. art. I, s. 24 (c).

⁸ ch. 119, F.S.

⁹ State University System of Florida, Board of Governors, Legislative Bill Analysis (February 13, 2017).

The Legislature finds that this public records exemption be given retroactive application because it is remedial in nature. It provides for the review of such enumerated information by the Auditor General, the Board of Governors, and the Cybercrime Office of the Department of Law Enforcement, as well as other state and federal agencies for security purposes.

The bill also creates an exemption for portions of otherwise public meetings, where such enumerated information technology security matters are discussed. Recordings or transcripts of such closed portions of meetings must be taken. Recordings or transcripts are confidential and exempt, unless a court determines a transcript may be released to a third party, and subject to an in camera review by a judge upon challenge of a refusal to disclose.

The bill creates an October 2, 2022, sunset provision.

B. SECTION DIRECTORY:

Section 1. Exempts from the Sunshine Laws all specified data or information from technology systems owned, contracted, or maintained by a state university or a Florida College System institution. Also, provides an October 2, 2022 sunset of the exemption.

Section 2. States the legislative intent for shielding and making confidential the specified data or information.

Section 3. Directs Division of Law Revision and Information to replace the phrase “the effective date of this act” with “the date this act becomes law.”

Section 4. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for any personal identifying information of an applicant for president, provost, or dean of any state university or FCS institution, in addition to a public meeting exemption for any meetings wherein such information is discussed or such applicants are vetted. The exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish the stated purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 creating s. 1004.055, F.S.; creating an exemption from
 4 public records requirements for certain records held
 5 by a state university or Florida College System
 6 institution which identify detection, investigation,
 7 or response practices for suspected or confirmed
 8 information technology security incidents; creating an
 9 exemption from public records requirements for certain
 10 portions of risk assessments, evaluations, external
 11 and internal audits, and other reports of a
 12 university's or institution's information technology
 13 security program; creating an exemption from public
 14 meetings requirements for portions of public meetings
 15 which would reveal such data and information;
 16 providing an exemption from public records
 17 requirements for a specified period for the recording
 18 and transcript of a closed meeting; authorizing
 19 disclosure of confidential and exempt information to
 20 certain agencies and officers; defining the term
 21 "external audit"; providing retroactive application;
 22 providing for future legislative review and repeal of
 23 the exemptions; providing statements of public
 24 necessity; providing a directive to the Division of
 25 Law Revision and Information; providing an effective

26 date.

27

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

29

30 Section 1. Section 1004.055, Florida Statutes, is created
31 to read:

32 1004.055 Security of data and information technology in
33 state postsecondary education institutions.-

34 (1) All of the following data or information from
35 technology systems owned, contracted, or maintained by a state
36 university or a Florida College System institution are
37 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
38 of the State Constitution:

39 (a) Records held by the university or institution which
40 identify detection, investigation, or response practices for
41 suspected or confirmed information technology security
42 incidents, including suspected or confirmed breaches, if the
43 disclosure of such records would facilitate unauthorized access
44 to or unauthorized modification, disclosure, or destruction of:

45 1. Data or information, whether physical or virtual; or

46 2. Information technology resources, which include:

47 a. Information relating to the security of the
48 university's or institution's technologies, processes, and
49 practices designed to protect networks, computers, data
50 processing software, and data from attack, damage, or

51 unauthorized access; or

52 b. Security information, whether physical or virtual,
53 which relates to the university's or institution's existing or
54 proposed information technology systems.

55 (b) Those portions of risk assessments, evaluations,
56 external and internal audits, and other reports of the
57 university's or institution's information technology security
58 program for its data, information, and information technology
59 resources which are held by the university or institution, if
60 the disclosure of such records would facilitate unauthorized
61 access to or unauthorized modification, disclosure, or
62 destruction of:

63 1. Data or information, whether physical or virtual; or

64 2. Information technology resources, which include:

65 a. Information relating to the security of the
66 university's or institution's technologies, processes, and
67 practices designed to protect networks, computers, data
68 processing software, and data from attack, damage, or
69 unauthorized access; or

70 b. Security information, whether physical or virtual,
71 which relates to the university's or institution's existing or
72 proposed information technology systems.

73 (2) Those portions of a public meeting as specified in s.
74 286.011 which would reveal data and information described in
75 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. 1

76 of the State Constitution. An exempt portion of the meeting may
 77 not be off the record. All exempt portions of such a meeting
 78 must be recorded and transcribed. The recording and transcript
 79 of the meeting must remain confidential and exempt from
 80 disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the State
 81 Constitution unless a court of competent jurisdiction, following
 82 an in camera review, determines that the meeting was not
 83 restricted to the discussion of data and information made
 84 confidential and exempt by this section. In the event of such a
 85 judicial determination, only that portion of the transcript
 86 which reveals nonexempt data and information may be disclosed.

87 (3) The records and portions of public meeting recordings
 88 and transcripts described in subsections (1) and (2) must be
 89 available to the Auditor General, the Cybercrime Office of the
 90 Department of Law Enforcement, and, for state universities, the
 91 Board of Governors. Such records and portions of meetings,
 92 recordings, and transcripts may be made available to a state or
 93 federal agency for security purposes or in furtherance of the
 94 agency's official duties. For purposes of this section,
 95 "external audit" means an audit that is conducted by an entity
 96 other than the state university or Florida College System
 97 institution that is the subject of the audit.

98 (4) The exemptions listed in this section apply to such
 99 records or portions of public meetings, recordings, and
 100 transcripts held by the university or institution before, on, or

101 after the effective date of this act.

102 (5) This section is subject to the Open Government Sunset
 103 Review Act in accordance with s. 119.15 and shall stand repealed
 104 on October 2, 2022, unless reviewed and saved from repeal
 105 through reenactment by the Legislature.

106 Section 2. (1)(a) The Legislature finds that it is a
 107 public necessity that records held by a state university or
 108 Florida College System institution which identify detection,
 109 investigation, or response practices for suspected or confirmed
 110 information technology security incidents, including suspected
 111 or confirmed breaches, be made confidential and exempt from s.
 112 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 113 State Constitution if the disclosure of such records would
 114 facilitate unauthorized access to or unauthorized modification,
 115 disclosure, or destruction of:

116 1. Data or information, whether physical or virtual; or

117 2. Information technology resources, which include:

118 a. Information relating to the security of the
 119 university's or institution's technologies, processes, and
 120 practices designed to protect networks, computers, data
 121 processing software, and data from attack, damage, or
 122 unauthorized access; or

123 b. Security information, whether physical or virtual,
 124 which relates to the university's or institution's existing or
 125 proposed information technology systems.

126 (b) Such records must be made confidential and exempt for
 127 the following reasons:

128 1. Records held by a state university or Florida College
 129 System institution which identify information technology
 130 detection, investigation, or response practices for suspected or
 131 confirmed information technology security incidents or breaches
 132 are likely to be used in the investigation of the incident or
 133 breach. The release of such information could impede the
 134 investigation and impair the ability of reviewing entities to
 135 effectively and efficiently execute their investigative duties.
 136 In addition, the release of such information before an active
 137 investigation is completed could jeopardize the ongoing
 138 investigation.

139 2. An investigation of an information technology security
 140 incident or breach is likely to result in the gathering of
 141 sensitive personal information, including identification
 142 numbers, personal financial and health information, and
 143 educational records exempt from disclosure under the Family
 144 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and ss.
 145 1002.225 and 1006.52, Florida Statutes. Such information could
 146 be used to commit identity theft or other crimes. In addition,
 147 release of such information could subject possible victims of
 148 the security incident or breach to further harm.

149 3. Disclosure of a record, including a computer forensic
 150 analysis, or other information that would reveal weaknesses in a

151 state university's or Florida College System institution's data
 152 security could compromise that security in the future if such
 153 information were available upon conclusion of an investigation
 154 or once an investigation ceased to be active.

155 4. Such records are likely to contain proprietary
 156 information about the security of the system at issue. The
 157 disclosure of such information could result in the
 158 identification of vulnerabilities and further breaches of that
 159 system. In addition, the release of such information could give
 160 business competitors an unfair advantage and weaken the security
 161 technology supplier supplying the proprietary information in the
 162 marketplace.

163 5. The disclosure of such records could potentially
 164 compromise the confidentiality, integrity, and availability of
 165 state university and Florida College System institution data and
 166 information technology resources, which would significantly
 167 impair the administration of vital educational programs. It is
 168 necessary that this information be made confidential in order to
 169 protect the technology systems, resources, and data of the
 170 universities and institutions. The Legislature further finds
 171 that this public records exemption be given retroactive
 172 application because it is remedial in nature.

173 (2) (a) The Legislature also finds that it is a public
 174 necessity that portions of risk assessments, evaluations,
 175 external and internal audits, and other reports of a state

176 university's or Florida College System institution's information
 177 technology security program for its data, information, and
 178 information technology resources which are held by the
 179 university or institution be made confidential and exempt from
 180 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 181 State Constitution if the disclosure of such portions of records
 182 would facilitate unauthorized access to or the unauthorized
 183 modification, disclosure, or destruction of:

184 1. Data or information, whether physical or virtual; or
 185 2. Information technology resources, which include:

186 a. Information relating to the security of the
 187 university's or institution's technologies, processes, and
 188 practices designed to protect networks, computers, data
 189 processing software, and data from attack, damage, or
 190 unauthorized access; or

191 b. Security information, whether physical or virtual,
 192 which relates to the university's or institution's existing or
 193 proposed information technology systems.

194 (b) The Legislature finds that it may be valuable,
 195 prudent, or critical to a state university or Florida College
 196 System institution to have an independent entity conduct a risk
 197 assessment, an audit, or an evaluation or complete a report of
 198 the university's or institution's information technology program
 199 or related systems. Such documents would likely include an
 200 analysis of the university's or institution's current

201 information technology program or systems which could clearly
 202 identify vulnerabilities or gaps in current systems or processes
 203 and propose recommendations to remedy identified
 204 vulnerabilities.

205 (3)(a) The Legislature further finds that it is a public
 206 necessity that those portions of a public meeting which could
 207 reveal information described in subsections (1) and (2) be made
 208 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
 209 I of the State Constitution. It is necessary that such meetings
 210 be made exempt from the open meetings requirements in order to
 211 protect institutional information technology systems, resources,
 212 and data. The information disclosed during portions of meetings
 213 would clearly identify a state university's or Florida College
 214 System institution's information technology systems and its
 215 vulnerabilities. This disclosure would jeopardize the
 216 information technology security of the institution and
 217 compromise the integrity and availability of state university or
 218 Florida College System institution data and information
 219 technology resources, which would significantly impair the
 220 administration of educational programs.

221 (b) The Legislature further finds that it is a public
 222 necessity that the recording and transcript of those portions of
 223 meetings specified in paragraph (a) be made confidential and
 224 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 225 Article I of the State Constitution unless a court determines

226 that the meeting was not restricted to the discussion of data
 227 and information made confidential and exempt by this act. It is
 228 necessary that the resulting recordings and transcripts be made
 229 confidential and exempt from the public record requirements in
 230 order to protect institutional information technology systems,
 231 resources, and data. The disclosure of such recordings and
 232 transcripts would clearly identify a state university's or
 233 Florida College System institution's information technology
 234 systems and its vulnerabilities. This disclosure would
 235 jeopardize the information technology security of the
 236 institution and compromise the integrity and availability of
 237 state university or Florida College System institution data and
 238 information technology resources, which would significantly
 239 impair the administration of educational programs.

240 (c) The Legislature further finds that this public meeting
 241 and public records exemption must be given retroactive
 242 application because it is remedial in nature.

243 Section 3. The Division of Law Revision and Information is
 244 directed to replace the phrase "the effective date of this act"
 245 wherever it occurs in this act with the date this act becomes a
 246 law.

247 Section 4. This act shall take effect upon becoming a law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Post-Secondary Education
 2 Subcommittee
 3 Representative Leek offered the following:

Amendment

4
 5
 6 Remove lines 89-91 and insert:
 7 available to the Auditor General and the Cybercrime Office of
 8 the Department of Law Enforcement; for a state university, the
 9 Board of Governors; and, for a Florida College System
 10 institution, the State Board of Education. Such records and
 11 portions of meetings,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 859 Postsecondary Distance Education

SPONSOR(S): Mariano

TIED BILLS: None **IDEN./SIM. BILLS:** SB 668

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee		Dehmer DD	Bishop HRB
2) Higher Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill establishes a council within the Florida Department of Education (DOE), consisting of members of Florida's postsecondary education system, which will:

- administer reciprocity agreements with other states to authorize institutions to offer postsecondary distance education in such states;
- review and approve applications from institutions in Florida to participate in the reciprocity agreement;
- establish an appeals process for institutions that are denied participation in the reciprocity agreement;
- ensure Florida institutions comply with the terms and provisions of the reciprocity agreement;
- comply with the terms and provisions of the reciprocity agreement relating to any state, territory or district approved to participate in the reciprocity agreement;
- comply with the reporting requirements in the reciprocity agreement;
- develop and administer a complaint resolution process for complaints related to reciprocity agreement;
- delegate any responsibilities to the Commission for Independent Education (CIE) necessary for Florida's participation in the reciprocity agreement;
- recommend rules necessary to administer reciprocity agreements to the Florida State Board of Education (SBE);
- collect fees from each Florida institution associated with the reciprocity agreement; and
- have the authority to revoke a Florida institution's participation in the reciprocity agreement if the institution is not in compliance with the terms of the agreement.

The bill provides that the decisions of the council are not subject to the administrative hearing procedures of chapter 120.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Authorization Reciprocity Agreements (SARA) are voluntary agreements between states that establish comparable national standards for interstate offerings of postsecondary distance-education courses and programs. SARA is intended to simplify and improve the process for students who take online courses offered by postsecondary institutions based in other states. States, not institutions or students, are members of SARA. As a result, states become members of SARA while colleges and universities participate in SARA. SARA is overseen by a National Council and administered by four regional education compacts.¹

In order to be eligible for membership, a state must either be a member of one of the four interstate Regional Compacts that administer SARA or have concluded an agreement with such a compact covering SARA activity. The state agency or entity responsible for joining SARA must have legal authority under state law to enter an interstate agreement that covers all of the elements of SARA.²

SARA centralizes the approval of distance education courses and programs offered across state lines by institutions that already have degree authorization in at least one state. Colleges and universities in a SARA state need only their home state authorization to offer distance education to any other SARA member state.³

Currently, Florida participates in the Southern Regional Educational Board's Electronic Regional Reciprocity Agreement (SECRRA). SECRRA allows Florida's approved colleges and universities to deliver online offerings in Southern Regional Education Board (SREB) member states.⁴ SREB member states include Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North and South Carolina, Oklahoma, Tennessee, Texas, and the Virginias.⁵

All SREB states, other than Florida, currently participate in SARA.⁶ On June 30, 2017, the current SECRRA agreement dissolves.⁷ Many SARA institutions are admitting only out-of-state students from SARA states. As a result, Florida students will be shut out of many SARA institutions if Florida fails to join SARA.⁸

The Counsel for Independent Education (CIE) is responsible for matters relating to nonpublic, postsecondary, educational institutions. The CIE's functions include consumer protection, program improvements, institutional policies and administration, data management, the licensure of independent schools, colleges and universities and establishing minimum standards for the approval of employees

¹ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *Basic questions about SARA*, <http://nc-sara.org/content/basic-questions-about-sara> (last visited February 6, 2017).

² See, State Authorization Reciprocity Agreements: Policy and Operations Manual, *Section 2. States and Membership*, http://nc-sara.org/files/docs/NC-SARA_Manual_Final_2016.pdf (last visited February 6, 2017).

³ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *Basic questions about SARA*, <http://nc-sara.org/content/basic-questions-about-sara> (last visited February 6, 2017).

⁴ See, Southern Regional Education Board, *SREB's regional agreement, SECRRA*, <http://www.sreb.org/state-authorization-sara-secrra> (last visited March 6, 2017).

⁵ See, Southern Regional Education Board, *SREB and Member States*, <http://www.sreb.org/sreb-and-member-states> (last visited March 6, 2017).

⁶ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *SARA States & Institutions*, <http://nc-sara.org/sara-states-institutions> (last visited March 7, 2017).

⁷ Email, Southern Regional Education Board, Director of Student Access Programs and Services (March 7, 2017).

⁸ Email, Southern Regional Education Board, Director of Student Access Programs and Services (December 12, 2016).

of independent postsecondary educational institutions.⁹ The CIE may adopt rules to ensure that licensed employees of an independent postsecondary educational institution meets specific standards. An employee of an independent postsecondary educational institution may not solicit prospective students in Florida for enrollment in any independent postsecondary educational institution under the CIE's purview. An employee of an independent postsecondary educational institution may not solicit prospective students in Florida for enrollment in any out-of-state independent postsecondary educational institution unless the employee has received a license as prescribed by the CIE.¹⁰

Effect of Proposed Changes

The bill establishes a council within the Florida Department of Education (DOE) to administer reciprocity agreements with other states to authorize institutions to offer postsecondary distance education in such states. The council shall consist of the Chancellor of the State University System, the Chancellor of the Florida College System, the Chancellor of the Division of Career and Adult Education, the Executive Director of the CIE, and the President of the Independent Colleges and Universities of Florida.

The council shall:

- apply for Florida to participate as a member of the reciprocity agreement;
- serve as the portal agency for the administration of the reciprocity agreement;
- review and approve applications from institutions in Florida to participate in the reciprocity agreement;
- establish an appeals process for institutions that are not approved to participate in the reciprocity agreement;
- ensure compliance by institutions in Florida with the terms and provisions of the reciprocity agreement;
- comply with the terms and provisions of the reciprocity agreement relating to any state, territory or district approved to participate in the reciprocity agreement, Florida institution or non-Florida institution;
- comply with the reporting requirements in the reciprocity agreement and post any required reports on the council's website;
- develop and administer a complaint resolution process for complaints related to the reciprocity agreement for which all available remedies at a Florida institution have been exhausted;
- delegate any responsibilities, obligations or authorities to the CIE's staff necessary for the administration of Florida's participation in the reciprocity agreement; and
- recommend rules necessary to administer reciprocity agreements to the Florida State Board of Education (SBE).

The bill provides that the council must propose an annual fee schedule and collect fees from each Florida institution participating in the reciprocity agreement. The fees must be commensurate with the costs incurred by the council and the CIE for administering the reciprocity agreement. The council shall submit a proposed fee schedule to the SBE for approval. The DOE shall include the approved fee schedule in its legislative budget request. All fees collected shall be submitted through the DOE to the Chief Financial Officer for deposit into a separate account within the Institutional Assessment Trust Fund.

The bill provides that the council may revoke a Florida institution's participation in the reciprocity agreement if the council determines the institution is not in compliance with the terms and provisions of the agreement. A Florida institution may withdraw from participation in the reciprocity agreement by

⁹ Florida Department of Education, *Commission for Independent Education*, <http://www.fldoe.org/policy/cie> (last visited March 7, 2017); s. 1005.31(11), F.S.

¹⁰ Section 1005.31(11), F.S.

submitting notice of intent to withdraw to the council. The intent to withdraw becomes effective at the beginning of the academic term after receipt of the notice.

The bill provides that the decisions of the council are not subject to the administrative hearing procedures of chapter 120.

The bill provides that any non-Florida institution that has been approved to participate in a reciprocity agreement that offers degree programs and conducts activities limited to distance education degree programs and activities in accordance with the reciprocity agreement are not under the jurisdiction of the CIE.

The bill provides that an employee of an independent postsecondary educational institution may not solicit prospective students in Florida for enrollment in any out-of-state independent postsecondary educational institution unless the employee solicits for a postsecondary educational institution that is not under the jurisdiction of the CIE.

B. SECTION DIRECTORY:

Section 1. Creates s. 1000.35, F.S., authorizing the Postsecondary Reciprocal Distance Education Coordinating Council to administer reciprocity agreements.

Section 2. Amends s. 1005.06, F.S., relating to institutions not under the jurisdiction of the CIE.

Section 3. Amends s. 1005.31, F.S. relating to licensure of colleges and schools operating in Florida.

Section 4. The bill provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None applicable.

1 A bill to be entitled
 2 An act relating to postsecondary distance education;
 3 creating s. 1000.35, F.S.; authorizing this state to
 4 participate in a reciprocity agreement for delivery of
 5 postsecondary distance education; providing
 6 definitions; establishing the Postsecondary Reciprocal
 7 Distance Education Coordinating Council within the
 8 Department of Education; providing a purpose;
 9 requiring the Commission for Independent Education to
 10 provide administrative support for the council;
 11 providing membership and duties of the council;
 12 requiring the council to propose an annual fee
 13 schedule and collect fees from Florida institutions
 14 participating in the reciprocity agreement; requiring
 15 the State Board of Education to approve the fee
 16 schedule; providing for deposit of such fees into a
 17 specified trust fund; authorizing the council to
 18 revoke a Florida institution's participation in the
 19 reciprocity agreement for noncompliance; authorizing
 20 such institution to withdraw from participation in the
 21 reciprocity agreement after providing notice;
 22 exempting council decisions from the Administrative
 23 Procedure Act; providing that provisions relating to
 24 the jurisdiction of the commission are not superseded;
 25 requiring the state board to adopt rules; amending s.

26 1005.06, F.S.; providing that the commission does not
 27 have jurisdiction over certain non-Florida
 28 institutions participating in the reciprocity
 29 agreement; amending s. 1005.31, F.S.; conforming a
 30 provision; providing an effective date.

31

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

33

34 Section 1. Section 1000.35, Florida Statutes, is created
 35 to read:

36 1000.35 Reciprocity agreement.-

37 (1) The purpose of this section is to authorize this state
 38 to participate in a reciprocity agreement with other states for
 39 the delivery of postsecondary distance education. Each member
 40 state or institution participating in the reciprocity agreement
 41 must accept the accreditation standards and criteria of each
 42 other member state and institution participating in the
 43 reciprocity agreement to offer postsecondary distance education.

44 (2) For purposes of this section, the term:

45 (a) "Commission" means the Commission for Independent
 46 Education.

47 (b) "Complaint" means a formal assertion in writing that a
 48 person, institution, state, agency, or other entity operating
 49 under the reciprocity agreement has violated the terms of the
 50 reciprocity agreement or the laws, standards, or regulations

51 incorporated therein.

52 (c) "Council" means the Postsecondary Reciprocal Distance
 53 Education Coordinating Council, which serves as the single
 54 portal agency designated by the state to administer the
 55 reciprocity agreement and serves as the interstate point of
 56 contact for questions, complaints, and other matters related to
 57 the reciprocity agreement.

58 (d) "Department" means the Department of Education.

59 (e) "Florida institution" means a postsecondary
 60 educational institution approved by the council to participate
 61 in the reciprocity agreement.

62 (f) "Institution" means a public or private postsecondary
 63 educational institution that is accredited by a federally
 64 recognized accrediting body and that awards, at a minimum,
 65 associate-level degrees requiring at least 2 years of full-time
 66 equivalent college coursework.

67 (g) "Member state" means a state, territory, or district
 68 within the United States that has been approved to participate
 69 in the reciprocity agreement.

70 (h) "Non-Florida institution" means an institution
 71 approved by a member state other than this state to participate
 72 in the reciprocity agreement.

73 (i) "Reciprocity agreement" means an agreement that
 74 establishes reciprocity between member states to authorize
 75 institutions to offer postsecondary distance education in such

76 states pursuant to the terms and conditions in the agreement.

77 (j) "State board" means the State Board of Education.

78 (3) The council is established within the department for
 79 the purpose of administering the reciprocity agreement, and
 80 except as otherwise provided in this subsection, shall operate
 81 consistent with s. 20.052.

82 (a) The council shall consist of the Chancellor of the
 83 State University System, the Chancellor of the Florida College
 84 System, the Chancellor of the Division of Career and Adult
 85 Education, the Executive Director of the Commission for
 86 Independent Education, and the President of the Independent
 87 Colleges and Universities of Florida. The commission shall
 88 provide administrative support for the council.

89 (b) The council shall:

90 1. Apply for this state to participate as a member of the
 91 reciprocity agreement.

92 2. Serve as the portal agency for the administration of
 93 the reciprocity agreement.

94 3. Review and approve applications from institutions in
 95 this state to participate in the reciprocity agreement and
 96 establish an appeals process for institutions that are not
 97 approved to participate in the reciprocity agreement.

98 4. Ensure compliance by Florida institutions with the
 99 terms and provisions of the reciprocity agreement.

100 5. Comply with the terms and provisions of the reciprocity

101 agreement relating to any member state, Florida institution, or
 102 non-Florida institution.

103 6. Comply with the reporting requirements in the
 104 reciprocity agreement, and post any required reports on the
 105 council's website.

106 7. Develop and administer a complaint resolution process
 107 for complaints related to the reciprocity agreement for which
 108 all available remedies at a Florida institution have been
 109 exhausted.

110 8. Delegate any responsibilities, obligations, or
 111 authorities to the commission's staff necessary for the
 112 administration of this state's participation in the reciprocity
 113 agreement.

114 9. Recommend rules necessary to administer this section
 115 for adoption by the state board.

116 (c) The council shall propose an annual fee schedule and
 117 collect fees from each Florida institution participating in the
 118 reciprocity agreement. The fees shall be commensurate with the
 119 costs incurred by the council and the commission for
 120 administering the reciprocity agreement. The council shall
 121 submit the proposed fee schedule to the state board for
 122 approval. The department shall include the approved fee schedule
 123 in its legislative budget request which takes effect unless
 124 revised in the General Appropriations Act. All fees collected
 125 pursuant to this paragraph shall be submitted through the

126 department to the Chief Financial Officer for deposit into a
 127 separate account within the Institutional Assessment Trust Fund.
 128 Any fee authorized by the council is nonrefundable unless paid
 129 in error.

130 (d) The council may revoke a Florida institution's
 131 participation in the reciprocity agreement if the council
 132 determines such institution is not in compliance with the terms
 133 and provisions of the reciprocity agreement.

134 (e) A Florida institution may withdraw from participation
 135 in the reciprocity agreement by submitting notice of its intent
 136 to withdraw to the council which shall become effective at the
 137 beginning of the next academic term after receipt of such
 138 notice.

139 (f) Decisions by the council are not subject to chapter
 140 120.

141 (4) This section does not supersede the requirements in
 142 chapter 1005 relating to postsecondary educational institutions
 143 under the jurisdiction of the commission.

144 (5) The state board shall adopt rules to implement this
 145 section.

146 Section 2. Paragraph (h) is added to subsection (1) of
 147 section 1005.06, Florida Statutes, to read:

148 1005.06 Institutions not under the jurisdiction or purview
 149 of the commission.—

150 (1) Except as otherwise provided in law, the following

151 institutions are not under the jurisdiction or purview of the
 152 commission and are not required to obtain licensure:

153 (h) Any non-Florida institution that has been approved by
 154 a member state to participate in a reciprocity agreement, as
 155 those terms are defined in s. 1000.35(2), entered into by the
 156 Postsecondary Reciprocal Distance Education Coordinating Council
 157 under s. 1000.35, and offers degree programs and conducts
 158 activities that are limited to distance education degree
 159 programs and activities in accordance with the reciprocity
 160 agreement.

161 Section 3. Subsection (11) of section 1005.31, Florida
 162 Statutes, is amended to read:

163 1005.31 Licensure of institutions.—

164 (11) The commission shall establish minimum standards for
 165 the approval of agents. The commission may adopt rules to ensure
 166 that licensed agents meet these standards and uphold the intent
 167 of this chapter. An agent may not solicit prospective students
 168 in this state for enrollment in any independent postsecondary
 169 educational institution under the commission's purview or in any
 170 out-of-state independent postsecondary educational institution
 171 unless the agent has received a license as prescribed by the
 172 commission or solicits for a postsecondary educational
 173 institution that is not under the jurisdiction of the commission
 174 pursuant to s. 1005.06(1)(h).

175 Section 4. This act shall take effect upon becoming a law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Post-Secondary Education
 2 Subcommittee

3 Representative Mariano offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 1000.35, Florida Statutes, is created
 8 to read:

9 1000.35 State Authorization Reciprocity Agreement.-

10 (1) The purpose of this section is to authorize this
 11 state's participation in the State Authorization Reciprocity
 12 Agreement (SARA) as established by the Southern Regional
 13 Education Board (SREB) and the National Council for State
 14 Authorization Reciprocity Agreements (NC-SARA) relative to
 15 postsecondary distance education as defined in the SARA. All
 16 parties to the SARA must be willing to accept each other's



Amendment No. 1

17 authorization of accredited institutions to operate in their
18 state to offer distance educational services beyond state
19 boundaries.

20 (2) For purposes of this section, the term:

21 (a) "Commission" means the Commission for Independent
22 Education.

23 (b) "Complaint" means a formal assertion in writing that a
24 person, institution, state, agency, or other entity operating
25 under the SARA has violated the terms of the SARA or the laws,
26 standards, or regulations incorporated therein.

27 (c) "Council" means the Postsecondary Reciprocal Distance
28 Education Coordinating Council, which serves as the single
29 portal entity designated by the state to administer the SARA and
30 serves as the interstate point of contact for SARA-related
31 questions, complaints, and other matters related to the SARA.

32 (d) "Department" means the Department of Education.

33 (e) "Florida SARA institution" means a postsecondary
34 institution in this state approved by the council to participate
35 in the SARA.

36 (f) "Institution" means a public or private postsecondary
37 degree-granting college or university that is accredited by a
38 federally recognized accrediting body and that awards, at a
39 minimum, associate-level degrees requiring at least 2 years of
40 full-time equivalent college work.



Amendment No. 1

41 (g) "Member state" means a state, territory, or district
42 within the United States that has been approved to participate
43 in the SARA.

44 (h) "Non-Florida SARA institution" means an institution
45 approved by a member state other than this state to participate
46 in the SARA.

47 (i) "SREB" means the Southern Regional Education Board.

48 (j) "State Authorization Reciprocity Agreement" or "SARA"
49 means the agreement that establishes reciprocity between member
50 states that accept other member states' authorization of
51 accredited institutions to operate in their states to offer
52 distance educational services beyond state boundaries pursuant
53 to the terms and conditions set forth in the agreement.

54 (k) "State board" means the State Board of Education.

55 (3) The council is created within the department for the
56 purpose of administering the SARA. The council shall consist of
57 the Chancellor of the State University System, the Chancellor of
58 the Florida College System, the Chancellor of the Division of
59 Career and Adult Education, the executive director of the
60 commission, and the president of the Independent Colleges and
61 Universities of Florida. The commission shall provide
62 administrative support for the council. The council shall:

63 (a) Within 60 days after the effective date of this act,
64 apply for this state to participate as a member of the SARA
65 pursuant to the procedures established by the SREB;

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66 (b) Serve as the single portal entity for administration
67 of the SARA;

68 (c) Review and approve applications from institutions in
69 this state to participate in the SARA and establish an appeals
70 process for institutions that are not approved to participate in
71 the SARA;

72 (d) Ensure compliance by Florida SARA institutions with
73 the terms and provisions of the SARA, including, but not limited
74 to, accreditation and institutional quality, consumer
75 information and protection, disclosure and reporting
76 requirements, complaint mechanisms, and financial
77 responsibility;

78 (e) Comply with the terms and provisions of the SARA
79 relating to any member state, Florida SARA institution, or non-
80 Florida SARA institution;

81 (f) Comply with the reporting requirements in the SARA and
82 post all such reports on the council's website;

83 (g) Consistent with the complaint resolution processes in
84 the SARA, develop and administer a complaint resolution process
85 to resolve SARA-related complaints after all complaint processes
86 in place at a Florida SARA institution have been exhausted by
87 the complainant;

88 (h) Delegate any responsibilities, obligations, or
89 authorities necessary for the administration of this state's
90 participation in the SARA to the commission's staff; and

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91 (i) Recommend rules necessary to administer this section
92 for adoption by the state board.

93 (4) The council shall propose an annual fee schedule and
94 collect fees from each Florida SARA institution. The fees shall
95 be commensurate with the costs incurred by the council and
96 commission to administer the SARA and shall be based on a
97 graduated scale of institutional enrollment. The council shall
98 propose an annual fee schedule to generate the amount of revenue
99 necessary for its operations. The proposed fee schedule shall be
100 submitted to the state board for approval. The department shall
101 include the approved fee schedule in its legislative budget
102 request which takes effect unless revised by the Legislature in
103 the General Appropriations Act. All fees collected pursuant to
104 this subsection shall be submitted through the department to the
105 Chief Financial Officer for deposit into a separate account
106 within the Institutional Assessment Trust Fund. Any fee
107 authorized by the council is nonrefundable unless paid in error.

108 (5) The council may revoke a Florida SARA institution's
109 approval to participate in the SARA if the council determines
110 such institution is not in compliance with the terms and
111 provisions of the SARA.

112 (6) A Florida SARA institution may withdraw from
113 participation as a Florida SARA institution by submitting notice
114 of its intent to withdraw to the council, which shall become



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115 effective at the beginning of the next academic term after
116 receipt of such notice.

117 (7) Decisions of the council are not subject to chapter
118 120.

119 (8) This section does not supersede the requirements in
120 chapter 1005 relating to postsecondary educational institutions
121 under the jurisdiction of the commission.

122 (9) The state board shall adopt rules to implement this
123 section.

124 Section 2. Paragraph (h) is added to subsection (1) of
125 section 1005.06, Florida Statutes, to read:

126 1005.06 Institutions not under the jurisdiction or purview
127 of the commission.—

128 (1) Except as otherwise provided in law, the following
129 institutions are not under the jurisdiction or purview of the
130 commission and are not required to obtain licensure:

131 (h) Any non-Florida institution that has been approved by
132 a member state to participate in the State Authorization
133 Reciprocity Agreement (SARA), as those terms are defined in s.
134 1000.35(2), if the degree programs that may be offered and the
135 activities that may be conducted by such institution in this
136 state are limited to the distance education degree programs and
137 activities provided in and consistent with the terms and
138 provisions of the SARA.



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139 Section 3. Subsection (11) of section 1005.31, Florida
140 Statutes, is amended to read:

141 1005.31 Licensure of institutions.—

142 (11) The commission shall establish minimum standards for
143 the approval of agents. The commission may adopt rules to ensure
144 that licensed agents meet these standards and uphold the intent
145 of this chapter. An agent may not solicit prospective students
146 in this state for enrollment in any independent postsecondary
147 educational institution under the commission's purview or in any
148 out-of-state independent postsecondary educational institution
149 unless the agent has received a license as prescribed by the
150 commission or solicits for a postsecondary educational
151 institution that is not under the jurisdiction of the commission
152 pursuant to s. 1005.06(1)(h).

153 Section 4. The Division of Law Revision and Information is
154 directed to replace the phrase "the effective date of this act"
155 wherever it occurs in this act with the date this act becomes a
156 law.

157 Section 5. This act shall take effect upon becoming a law.
158

159 -----

160 **T I T L E A M E N D M E N T**

161 Remove everything before the enacting clause and insert:

162 A bill to be entitled



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163 An act relating to postsecondary distance education; creating s.
164 1000.35, F.S.; authorizing this state to participate in the
165 State Authorization Reciprocity Agreement (SARA) for delivery of
166 postsecondary distance education; providing definitions;
167 establishing the Postsecondary Reciprocal Distance Education
168 Coordinating Council within the Department of Education;
169 requiring the Commission for Independent Education to provide
170 administrative support for the council; providing membership and
171 duties of the council; requiring the council to propose an
172 annual fee schedule and collect fees from Florida SARA
173 institutions; requiring the State Board of Education to approve
174 the fee schedule; providing for deposit of such fees into a
175 specified trust fund; authorizing the council to revoke a
176 Florida SARA institution's participation for noncompliance;
177 authorizing such institution to withdraw from participation in
178 the SARA after providing notice; exempting council decisions
179 from the Administrative Procedure Act; providing that provisions
180 relating to the jurisdiction of the commission are not
181 superseded; requiring the state board to adopt rules; amending
182 s. 1005.06, F.S.; providing that the commission does not have
183 jurisdiction over certain non-Florida institutions participating
184 in the SARA; amending s. 1005.31, F.S.; authorizing the
185 solicitation of prospective students for enrollment in certain
186 postsecondary educational institutions; providing a directive to

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187 | the Division of Law Revision and Information; providing an
188 | effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1079 Pub. Rec. and Meetings/Comprehensive Emergency Management Plan for Public Postsecondary Institutions

SPONSOR(S): Rommel

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1224

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee		McAlarney	DM Bishop HRB
2) Oversight, Transparency & Administration Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill creates an exemption from public record and public meeting requirements for information associated with campus emergency response of a public postsecondary educational institution. "Campus emergency response" is defined as a public postsecondary education institution's response to or plan for responding to an act of terrorism, public safety crisis, or emergency.

The public records exemptions in this bill apply to plans held by a custodial agency before, on, or after the effective date. Also, the bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The bill does not appear to have a fiscal impact on state or local governments.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Public Record and Public Meeting Exemptions

The Legislature may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.⁵

Furthermore, the Open Government Sunset Review Act⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:⁷

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;

¹ Section 286.011(1), F.S.

² *Id.*

³ Section 286.011(6), F.S.

⁴ Section 286.011(2), F.S.

⁵ Art. I, s. 24(c), Fla. Const.

⁶ Section 119.15, F.S.

⁷ Section 119.15(6)(b), F.S.

- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protects trade or business secrets.

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.⁸

Current Security Plans

Section 119.071 (3), F.S. provides that "security system plans" for any property owned or leased to the state or any of its political subdivisions or any privately owned or leased property held by an agency are exempt from disclosure. Security system plans include:⁹

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems;¹⁰
- Threat assessments conducted by any agency or any private entity;¹¹
- Threat response plans;¹²
- Emergency evacuation plans;¹³
- Sheltering arrangements;¹⁴ or
- Manuals for security personnel, emergency equipment, or security training.¹⁵

Also, all meetings where security system plans are discussed are exempt.¹⁶ Any information revealing the existence a plan or relating to plans are exempt.¹⁷

Assuming that Florida public universities are considered "owned by or leased to the state", there is an open question as to whether a discussion or record concerning a campus emergency plan would be exempt. Courts would likely decide the applicability of the security exception to state universities on a case-by-case basis.

Effect of Proposed Changes

The bill creates an exemption from public record requirements for information associated with the campus emergency response of a public postsecondary educational institution.

"Campus emergency response" is defined as a public postsecondary education Institution's response to or plan for responding to an act of terrorism, public safety crisis, or emergency.

Specifically, the information exempted includes:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof.

⁸ Section 119.15(3), F.S.

⁹ Section 119.071 (3) (a) 1., F.S.

¹⁰ Section 119.071 (3) (a) 1. a, F.S.

¹¹ Section 119.071 (3) (a) 1. b., F.S.

¹² Section 119.071 (3) (a) 1. c., F.S.

¹³ Section 119.071 (3) (a) 1. d., F.S.

¹⁴ Section 119.071 (3) (a) 1. e., F.S.

¹⁵ Section 119.071 (3) (a) 1. f., F.S.

¹⁶ Section 286.0113, F.S.

¹⁷ Section 281.301, F.S.

- Threat assessments conducted by any agency or private entity.
- Threat response plans.
- Emergency evacuation plans.
- Sheltering arrangements.
- Manuals for security personnel, emergency equipment, or security training.
- Security systems or plans.
- Vulnerability analyses.
- Post-disaster activities, including provisions for emergency power, communications, food, and water.
- Post-disaster transportation.
- Supplies, including drug caches.
- Staffing.
- Emergency equipment.
- Individual identification of students, faculty, and staff; the transfer of records; and methods of responding to family inquiries.

The bill is remedial in nature in that the public records exemptions apply to plans held by a custodial agency before, on, or after the bill's effective date. Any portion of a plan held by a public postsecondary institution, a state or local law enforcement agency, a court or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management is exempt¹⁸ from public record requirements.

The bill also addresses public meetings. The portion of a public meeting which would reveal information related to a campus emergency response is exempt from the public records and open meeting laws.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.0962, F.S., to provide public record and public meeting exemptions associated with campus emergency response plans of a public postsecondary educational institution.

Section 2. Provides a statement of public necessity as required by the State Constitution.

Section 3. Provides an effective date of July 1, 2017.

¹⁸ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill likely could create a minimal fiscal impact on state universities and FCS institutions, because staff responsible for complying with public record requests could require training related to creation of the public record exemption. In addition, state universities and FCS institutions could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the universities and institutions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption from public record and public meeting requirements for information associated with campus emergency response of a public postsecondary educational institution, in addition to a public meeting exemption for any meetings wherein such information is discussed. The exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish the stated purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None applicable.

26 response" means a public postsecondary education institution's
 27 response to or plan for responding to an act of terrorism, as
 28 defined by s. 775.30, or other public safety crisis or
 29 emergency, and includes information relating to:

30 (a) Records, information, photographs, audio and visual
 31 presentations, schematic diagrams, surveys, recommendations, or
 32 consultations or portions thereof.

33 (b) Threat assessments conducted by any agency or private
 34 entity.

35 (c) Threat response plans.

36 (d) Emergency evacuation plans.

37 (e) Sheltering arrangements.

38 (f) Manuals for security personnel, emergency equipment,
 39 or security training.

40 (g) Security systems or plans.

41 (h) Vulnerability analyses.

42 (i) Postdisaster activities, including provisions for
 43 emergency power, communications, food, and water.

44 (j) Postdisaster transportation.

45 (k) Supplies, including drug caches.

46 (l) Staffing.

47 (m) Emergency equipment.

48 (n) Individual identification of students, faculty, and
 49 staff; the transfer of records; and methods of responding to
 50 family inquiries.

51 (2) (a) Any portion of a campus emergency response held by
 52 a public postsecondary institution is exempt from s. 119.07(1)
 53 and s. 24(a), Art. I of the State Constitution.

54 (b) Any portion of a campus emergency response held by a
 55 state or local law enforcement agency, a county or municipal
 56 emergency management agency, the Executive Office of the
 57 Governor, the Department of Education, the Board of Governors of
 58 the State University System, or the Division of Emergency
 59 Management is exempt from s. 119.07(1) and s. 24(a), Art. I of
 60 the State Constitution.

61 (3) The public records exemptions provided by this section
 62 are remedial in nature, and it is the intent of the Legislature
 63 that the exemptions apply to plans held by a custodial agency
 64 before, on, or after the effective date of this section.

65 (4) That portion of a public meeting which would reveal
 66 information related to a campus emergency response is exempt
 67 from s. 286.011 and s. 24(b), Art. I of the State Constitution.

68 (5) This section is subject to the Open Government Sunset
 69 Review Act in accordance with s. 119.15 and shall stand repealed
 70 on October 2, 2022, unless reviewed and saved from repeal
 71 through reenactment by the Legislature.

72 Section 2. The Legislature finds that those portions of a
 73 campus emergency response held by a public postsecondary
 74 educational institution which address the response of a public
 75 postsecondary educational institution to an act of terrorism and

76 those portions of a campus emergency response of a public
 77 postsecondary institution which are filed or shared with a state
 78 or local law enforcement agency, a county or municipal emergency
 79 management agency, the Executive Office of the Governor, the
 80 Department of Education, the Board of Governors of the State
 81 University System, or the Division of Emergency Management must
 82 be made exempt from s. 119.07(1), Florida Statutes, and s.
 83 24(a), Art. I of the State Constitution. It is also the finding
 84 of the Legislature that any portion of a public meeting which
 85 would reveal information related to a campus emergency response
 86 be made exempt from s. 286.011, Florida Statutes, and s. 24(b),
 87 Art. I of the State Constitution. A campus emergency response
 88 affects the health and safety of the students, faculty, staff,
 89 and the public at large. If campus emergency responses were made
 90 publicly available for inspection or copying, they could be used
 91 to hamper or disable the response of a public postsecondary
 92 educational institution to an act of terrorism, or other public
 93 safety crisis or emergency. If a public postsecondary
 94 educational institution's response to these events were hampered
 95 or disabled, an increase in the number of Floridians subjected
 96 to fatal injury would occur. There is ample existing evidence of
 97 the capabilities of terrorists and other criminals to plot,
 98 plan, and coordinate complicated acts of terror and violence on
 99 university and college campuses all over the country. The
 100 aftermath of these events has also showed the importance of

101 | viable plans by which public postsecondary educational
102 | institutions can respond to terrorist attacks and other public
103 | safety crises or emergencies.

104 | Section 3. This act shall take effect July 1, 2017.