

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1256

SPONSOR: Criminal Justice Committee

SUBJECT: Public Records Exemptions

DATE: February 18, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers/Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill provides a public record exemption for seaport security plans. In addition, the bill provides photographs, maps, blueprints, drawings, and similar materials which detail critical seaport operating facilities are exempt from public disclosure to the extent the seaport authority reasonably determines such items contain information not generally known which could jeopardize the security of the seaport. The bill expressly excludes from the exemption layout plans and blueprints associated with leasing of seaport property.

The exemptions created by the bill would be repealed, subject to prior legislative review, October 2, 2005.

This bill creates the following section of the Florida Statutes: 311.13.

II. Present Situation:

Article I, s. 24, Florida Constitution, expresses Florida's public policy regarding access to government records in providing:

(a) Every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Article I, s. 24, Florida Constitution, does, however, permit the Legislature to provide by general law for the exemption of records from the requirements of s. 24. The general law exempting the records must state with specificity the public necessity justifying the exemption and can be no broader than necessary to accomplish the stated purpose of the law.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07, F.S., provides every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

Section 119.15, F.S., provides an exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes and the Legislature finds the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace

Chapter 311, F.S., relates to seaport transportation. The law does not currently contain confidentiality provisions for seaport security plans. Similarly, there are currently no confidentiality provisions for blueprints, drawings, and other materials that depict critical seaport operating facilities.

III. Effect of Proposed Changes:

This bill creates a public records exemption for the seaport security plans of a seaport authority created by an act of the Legislature or of a seaport department of a county or municipality that operates an international seaport. The bill also exempts photographs, maps, blueprints, drawings, and similar materials which detail seaport operating facilities, to the extent the seaport authority reasonably determines such items contain information not generally known which could jeopardize the security of the seaport. Information relating to real estate leases, lay-out plans, blueprints, or other relevant information would not be protected by the exemption.

The exemptions created by the bill would be repealed October 2, 2005, and would be reviewed by the Legislature before that date in accordance with the Open Government Sunset Review Act of 1995.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill creates public records exemptions for seaport security plans and certain materials that depict critical seaport operating facilities. The bill states that seaports constitute a major point of entry for illicit drugs and other contraband and are a potential target for terrorist activities. As a result, the bill would comply with the public records requirements of s. 24(c), Art. I of the State Constitution.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill was a specific recommendation from the 1999 Legislative Task Force on Illicit Money Laundering which was a joint legislative task force created to study and recommend ways to enhance Florida's strategy in combating money laundering. The task force's November, 1999 report entitled "Money Laundering in Florida: Report of the Legislative Task Force" specifically

recommended that the Legislature should create a public records exemption for seaport security plans, similar to the existing exemption for airport security plans.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
