

STORAGE NAME: h1437a.it.doc

DATE: April 05, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
INFORMATION TECHNOLOGY  
ANALYSIS**

**BILL #:** HB 1437

**RELATING TO:** Public Records/Communication Systems

**SPONSOR(S):** Representative(s) Ball

**TIED BILL(S):** SB 1762

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) INFORMATION TECHNOLOGY 9 YEAS 0 NAYS
  - (2) STATE ADMINISTRATION
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
- 

I. SUMMARY:

HB 1437 would amend s. 119.07, F.S. The bill would add paragraph (dd) to subsection (3) of s. 119.07 to exempt from public record laws technical information pertaining to trunking radio communications systems and mobile data communications systems used by state, county and local government that would allow unauthorized persons to gain transmit access to, or monitor encrypted or privileged communications over, such systems.

Information specifically protected includes system trunking format data, mobile data terminal information, coded radio identification information, information pertaining to internal system structuring, system keys, encryption codes used to facilitate secure communications, and control channel format information.

This bill would add legislative intent language relating to the public necessity for this public records exemption.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill would decrease the freedom of unauthorized individuals to access certain public communications systems and to monitor encrypted or privileged communications by offices or employees of affected agencies.

**B. PRESENT SITUATION:**

Currently, there is no public records exemption for the disclosure of technical information pertaining to trunking radio communications systems and mobile data communications systems used by governmental agencies, including but not limited to law enforcement agencies, fire departments, emergency medical services, government administration, school districts, water management districts and emergency management agencies. Disclosure of such information as a public record could risk the interception of information carried on these systems. This interception could, in turn, be used by individuals for the purpose of facilitating crimes or hindering governmental services.

**C. EFFECT OF PROPOSED CHANGES:**

The bill would make technical information pertaining to trunking radio communication systems and mobile data communications systems used by governmental entities both confidential and exempt for public records laws.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1:** The bill amends s. 119.07, F.S., to exempt from Florida public records laws all technical information relating to trunking radio communications systems and mobile data communications systems used by governmental entities from public records laws.

**Section 2:** Provides the legislative intent for the public records exemptions detailed in Section 1.

**Section 3:** Provides that this bill shall take effect July 1, 2001.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

N/A

2. Expenditures:

N/A

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill provides for an exemption to public records laws. The Legislature, by virtue of Article I, Section 24 of the Florida Constitution, has the authority to create exemptions to public records law. Article I, Section 24 of the Constitution provides that any exemption from public records enacted by the legislature must state with specificity the public necessity justifying the exemption. The law is not permitted to be any broader than necessary to accomplish the public purpose. Section 2 of the bill appears to adequately state Legislative findings related to the public purpose of the exemption to satisfy the constitutional requirements.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON HOUSE INFORMATION TECHNOLOGY:

Prepared by:

Staff Director:

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Richard Martin

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Charles Davidson