

By the Committee on Governmental Oversight and Productivity;
and Senators Brown-Waite, Smith and Crist

302-459A-02

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 395.1056, F.S.; creating an exemption for those
 4 portions of hospital comprehensive
 5 emergency-management plans which address the
 6 response of a hospital to an act of terrorism;
 7 creating an exemption for meetings at which
 8 those plans are discussed; providing a
 9 statement of public necessity; providing an
 10 effective date.

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

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14 Section 1. Section 395.1056, Florida Statutes, is
15 created to read:

16 395.1056 Exemption for plan components addressing
17 hospital's response to terrorism.--

18 (1) Those portions of a comprehensive
 19 emergency-management plan which address the response of a
 20 public or private hospital to an act of terrorism as defined
 21 by s. 775.30 and which are filed with or in the possession of
 22 the agency, a state or local law-enforcement agency, a county
 23 or municipal emergency-management agency, the office of the
 24 Governor, the Department of Health, or the Department of
 25 Community Affairs are confidential and exempt from the
 26 requirements of s. 119.07(1) and s. 24(a), Art. I of the State
 27 Constitution. Portions of a plan which address the response of
 28 a hospital to an act of terrorism include those portions
 29 addressing security systems or plans; vulnerability analyses;
 30 emergency evacuation transportation; sheltering arrangements;
 31 post-disaster activities, including provisions for emergency

1 power, communications, food, and water; post-disaster
2 transportation; supplies, including drug caches; staffing;
3 emergency equipment; and individual identification of
4 residents, transfer of records, and methods of responding to
5 family inquiries. This subsection is subject to the Open
6 Government Sunset Review Act of 1995 in accordance with s.
7 119.15 and shall stand repealed October 2, 2007, unless
8 reviewed and saved from repeal through reenactment by the
9 Legislature.

10 (2) Those portions of a comprehensive
11 emergency-management plan which address the response of a
12 hospital that is subject to open-records requirements to an
13 act of terrorism as defined by s. 775.30 and which are in the
14 custody of that public hospital are exempt from the
15 requirements of s. 119.07(1) and s. 24(a), Art. I of the State
16 Constitution. Such portions of the plan include those that
17 contain components that address security systems or plans;
18 vulnerability analyses; emergency evacuation transportation;
19 sheltering arrangements; post-disaster activities, including
20 provisions for emergency power, communications, food, and
21 water; post-disaster transportation; supplies, including drug
22 caches; staffing; emergency equipment; and individual
23 identification of residents, transfer of records, and methods
24 of responding to family inquiries. This subsection is subject
25 to the Open Government Sunset Review Act of 1995 in accordance
26 with s. 119.15 and shall stand repealed October 2, 2007,
27 unless reviewed and saved from repeal through reenactment by
28 the Legislature.

29 (3) Those portions of any public meeting relating
30 directly to, or which would reveal information regarding a
31 comprehensive emergency-management plan that addresses the

1 response of a hospital to an act of terrorism, or any portion
2 thereof, are exempt from the requirements of s. 286.011 and s.
3 24(b), Art. I of the State Constitution. This subsection is
4 subject to the Open Government Sunset Review Act of 1995 in
5 accordance with s. 119.15 and shall stand repealed October 2,
6 2007, unless reviewed and saved from repeal through
7 reenactment by the Legislature.

8 (4) The certification of the sufficiency of a plan by
9 the Governor, in coordination with the Department of Health,
10 is a public record.

11 Section 2. The Legislature finds that the exemption
12 from public-records and public-meetings requirements provided
13 in section 395.1056, Florida Statutes, is a public necessity
14 because those portions of a comprehensive emergency-management
15 plan which address the response of a public or private
16 hospital to an act of terrorism are vital plan components that
17 affect the health and safety of the public. If security
18 systems or plans, vulnerability analyses, emergency evacuation
19 transportation, sheltering arrangements, post-disaster
20 activities, including provisions for emergency power,
21 communications, food, and water, post-disaster transportation,
22 supplies, staffing, emergency equipment, individual
23 identification of residents, transfer of records, and methods
24 of responding to family inquiries were made publicly available
25 for inspection or copying, they could be used to hamper or
26 disable the response of a hospital to a terrorist attack. If
27 hospital response to an act of terrorism were hampered or
28 disabled, an increase in the number of Floridians subjected to
29 fatal injury would occur. While some skill would be required
30 to use knowledge of plan components to disable a hospital
31 response to an act of terrorism, there is ample existing

1 evidence of the capabilities of terrorists to plot, plan, and
2 coordinate complicated acts of terror. The hijacking and
3 crashing of planes, the destruction of the World Trade Center,
4 the attack on the Pentagon on September 1, 2001, as well as
5 the continued and purposeful spread of anthrax in Washington,
6 D.C., other states, and communities within this state, which
7 has resulted in the death of at least one Floridian, provide
8 evidence of such skill. The aftermath of these events has also
9 showed the importance of viable plans by which hospitals can
10 respond to acts of terror. As a result, the Legislature finds
11 that those portions of a comprehensive emergency management
12 plan which address the response of a public or private
13 hospital to an act of terrorism and which are filed with the
14 Agency for Health Care Administration, a state or local law
15 enforcement agency, a county emergency-management agency, the
16 office of the Governor, the Department of Health, or the
17 Department of Community Affairs must be confidential and
18 exempt and that the emergency-management plans of a public
19 hospital which are in the custody of a public hospital also
20 must be exempt.

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

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24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
25 COMMITTEE SUBSTITUTE FOR
26 SB 58-B

27 Creates an exemption from public records and public meetings
28 requirements for hospital comprehensive emergency management
29 plans that provide responses to acts of terrorism as defined
30 in s. 775.30, F.S.

31 Sunsets the exemption on October 2, 2007, unless reviewed and
reenacted by the Legislature prior to that date.

Provides a statement of public necessity.