

By the Committee on Security, Select and Representatives  
Gelber, Ball, Green, Cusack, Cantens, Bense, Hart and Machek

1                                   A bill to be entitled  
2           An act relating to public records; creating s.  
3           395.1056, F.S.; providing an exemption from  
4           public records requirements for those portions  
5           of a comprehensive emergency management plan  
6           which address the response of a public or  
7           private hospital to an act of terrorism and  
8           which are filed with the Agency for Health Care  
9           Administration, a state or local law  
10          enforcement agency, a county emergency  
11          management agency, the Executive Office of the  
12          Governor, the Department of Health, or the  
13          Department of Community Affairs; providing an  
14          exemption from public records requirements for  
15          those portions of a comprehensive emergency  
16          management plan which address the response of a  
17          public hospital to an act of terrorism and  
18          which are in the custody of that public  
19          hospital; providing an exemption from public  
20          meeting requirements for any portion of a  
21          public meeting which would reveal information  
22          contained in a comprehensive emergency  
23          management plan that addresses the response of  
24          a hospital to an act or terrorism; providing  
25          that certification by the Governor of a  
26          comprehensive emergency management plan that  
27          addresses the response of a hospital to an act  
28          of terrorism is a public record; providing for  
29          future review and repeal; providing a statement  
30          of public necessity; providing a contingent  
31          effective date.

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

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3 Section 1. Section 395.1056, Florida Statutes, is  
4 created to read:

5 395.1056 Plan components addressing hospital's  
6 response to terrorism; public records exemption; public  
7 meetings exemption.--

8 (1) Those portions of a comprehensive emergency  
9 management plan which address the response of a public or  
10 private hospital to an act of terrorism, as defined by s.  
11 775.30, and which are filed with or in the possession of the  
12 agency, a state or local law enforcement agency, a county or  
13 municipal emergency management agency, the Executive Office of  
14 the Governor, the Department of Health, or the Department of  
15 Community Affairs are confidential and exempt from the  
16 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
17 Constitution. Portions of a comprehensive emergency management  
18 plan which address the response of a public or private  
19 hospital to an act of terrorism include those portions  
20 addressing security systems or plans; vulnerability analyses;  
21 emergency evacuation transportation; sheltering arrangements;  
22 post-disaster activities, including provisions for emergency  
23 power, communications, food, and water; post-disaster  
24 transportation; supplies, including drug caches; staffing;  
25 emergency equipment; and individual identification of  
26 residents, transfer of records, and methods of responding to  
27 family inquiries. This subsection is subject to the Open  
28 Government Sunset Review Act of 1995, in accordance with s.  
29 119.15, and shall stand repealed on October 2, 2006, unless  
30 reviewed and saved from repeal through reenactment by the  
31 Legislature.

1       (2) Those portions of a comprehensive emergency  
2 management plan which address the response of a public  
3 hospital to an act of terrorism, as defined by s. 775.30, and  
4 which are held by that public hospital are exempt from the  
5 requirements of s. 119.07(1) and s. 24(a), Art. I of the State  
6 Constitution. Portions of a comprehensive emergency management  
7 plan which address the response of a public hospital to an act  
8 of terrorism include those portions addressing security  
9 systems or plans; vulnerability analyses; emergency evacuation  
10 transportation; sheltering arrangements; post-disaster  
11 activities, including provisions for emergency power,  
12 communications, food, and water; post-disaster transportation;  
13 supplies, including drug caches; staffing; emergency  
14 equipment; and individual identification of residents,  
15 transfer of records, and methods of responding to family  
16 inquiries. This subsection is subject to the Open Government  
17 Sunset Review Act of 1995, in accordance with s. 119.15, and  
18 shall stand repealed on October 2, 2006, unless reviewed and  
19 saved from repeal through reenactment by the Legislature.

20       (3) Any portion of a public meeting which would reveal  
21 information contained in a comprehensive emergency management  
22 plan that addresses the response of a hospital to an act of  
23 terrorism is exempt from the provisions of s. 286.011 and s.  
24 24(b), Art. I of the State Constitution. This subsection is  
25 subject to the Open Government Sunset Review Act of 1995, in  
26 accordance with s. 119.15, and shall stand repealed on October  
27 2, 2006, unless reviewed and saved from repeal through  
28 reenactment by the Legislature.

29       (4) The certification by the Governor, in coordination  
30 with the Department of Health, of the sufficiency of a  
31 comprehensive emergency management plan that addresses the

1 response of a hospital to an act of terrorism is a public  
2 record.  
3       Section 2. The Legislature finds that the exemption  
4 from public records and public meeting requirements provided  
5 by this act is a public necessity because those portions of a  
6 comprehensive emergency management plan which address the  
7 response of a public or private hospital to an act of  
8 terrorism are vital plan components that affect the health and  
9 safety of the public. If security systems or plans;  
10 vulnerability analyses; emergency evacuation transportation;  
11 sheltering arrangements; post-disaster activities, including  
12 provisions for emergency power, communications, food, and  
13 water; post-disaster transportation; supplies, including drug  
14 caches; staffing; emergency equipment; and individual  
15 identification of residents, transfer of records, and methods  
16 of responding to family inquiries were made publicly available  
17 for inspection or copying, they could be used to hamper or  
18 disable the response of a hospital to a terrorist attack. If a  
19 hospital's response to an act of terrorism were hampered or  
20 disabled, an increase in the number of Floridians subjected to  
21 fatal injury would occur. While some skill would be required  
22 to use knowledge of plan components to disable a hospital's  
23 response to an act of terrorism, there is ample existing  
24 evidence of the capabilities of terrorists to plot, plan, and  
25 coordinate complicated acts of terror. The hijacking and  
26 crashing of planes, the destruction of the World Trade Center,  
27 and the attack on the Pentagon on September 11, 2001, as well  
28 as the continued and purposeful spread of anthrax in  
29 Washington, D.C., other states, and communities within this  
30 state, which has resulted in the death of at least one  
31 Floridian, provide evidence of such skill. The aftermath of

1 these events has also showed the importance of viable plans by  
2 which hospitals can respond to acts of terror. As a result,  
3 the Legislature finds that those portions of a comprehensive  
4 emergency management plan which address the response of a  
5 public or private hospital to an act of terrorism and which  
6 are filed with the Agency for Health Care Administration, a  
7 state or local law enforcement agency, a local emergency  
8 management agency, the Executive Office of the Governor, the  
9 Department of Health, or the Department of Community Affairs  
10 must be confidential and exempt and that the emergency  
11 management plans of a public hospital which are held by that  
12 hospital must also be exempt.

13           Section 3. This act shall take effect on the same date  
14 that HB \_\_\_\_\_ or similar legislation defining "terrorism" for  
15 purposes of the Florida Criminal Code takes effect, if such  
16 legislation is adopted in the same legislative session or an  
17 extension thereof and becomes law.

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HOUSE SUMMARY

Provides an exemption from public records requirements for those portions of a comprehensive emergency management plan which address the response of a public or private hospital to an act of terrorism and which are filed with the Agency for Health Care Administration, a state or local law enforcement agency, a county emergency management agency, the Executive Office of the Governor, the Department of Health, or the Department of Community Affairs. Provides an exemption from public records requirements for those portions of a comprehensive emergency management plan which address the response of a public hospital to an act of terrorism and which are in the custody of that public hospital. Provides an exemption from public meeting requirements for any portion of a public meeting which would reveal information contained in a comprehensive emergency management plan that addresses the response of a hospital to an act or terrorism. Provides that certification by the Governor of a comprehensive emergency management plan that addresses the response of a hospital to an act of terrorism is a public record. Provides for future review and repeal of the exemptions and provides a statement of public necessity. Provides that the act is contingent upon passage of legislation that defines "terrorism" for purposes of the Florida Criminal Code.