

By Senator Storms

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1 A bill to be entitled
2 An act relating to public meetings and public records;
3 creating s. 311.23, F.S.; providing an exemption from
4 public-meetings requirements for meetings or portions
5 of meetings of the governing board of a public seaport
6 authority at which the board hears or discusses active
7 criminal investigative information or active criminal
8 intelligence information or receives a security
9 briefing from the Department of Law Enforcement;
10 providing conditions precedent to the closing of a
11 meeting; providing an exemption from public-records
12 requirements for an audio or video recording of a
13 closed meeting of the board and any minutes and notes
14 generated during the closed meeting until the criminal
15 investigative information or criminal intelligence
16 information heard or discussed in the meeting ceases
17 to be active or the security plan is no longer in
18 effect; specifying those persons who are authorized to
19 attend a closed meeting of the board; providing for
20 review and repeal under the Open Government Sunset
21 Review Act; providing a statement of public necessity;
22 providing a contingent effective date.

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

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26 Section 1. Section 311.23, Florida Statutes, is created to
27 read:

28 311.23 Public-records and public-meetings exemptions;
29 governing boards of public seaport authorities.-

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30 (1) (a) That portion of a meeting of the governing board of
31 a public seaport authority at which the board will hear or
32 discuss active criminal investigative information or active
33 criminal intelligence information as defined in s. 119.011 or
34 security plan briefings from the Department of Law Enforcement
35 is exempt from s. 286.011 and s. 24(b), Art. I of the State
36 Constitution, if:

37 1. The chair of the board announces at a public meeting
38 that, in connection with the performance of the board's duties,
39 it is necessary that active criminal investigative information
40 or active criminal intelligence information be discussed or the
41 security briefing be presented.

42 2. The chair declares the specific reasons that it is
43 necessary to close the meeting, or portion thereof, in a
44 document that is a public record and filed with the official
45 records of the board.

46 3. The entire closed meeting is recorded. The recording
47 must include the times of commencement and termination of the
48 closed meeting or portion thereof, all discussion and
49 proceedings, and the names of the persons present. No portion of
50 the closed meeting may be off the record. The recording must be
51 maintained by the board.

52 (b) An audio or video recording of, and any minutes and
53 notes generated during, a closed meeting of the board or closed
54 portion of a meeting of the board are exempt from s. 119.07(1)
55 and s. 24(a), Art. I of the State Constitution. The exemption
56 applies until the criminal investigative information or criminal
57 intelligence information heard or discussed in the meeting
58 ceases to be active or the security plan is no longer in effect.

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59 The audio or video recording and minutes and notes must be
60 retained pursuant to s. 119.021.

61 (2) Only members of the board, staff supporting the board's
62 functions, and other persons whose presence has been authorized
63 by the chair of the board shall be allowed to attend the
64 exempted portions of board meetings. The board shall ensure that
65 any closure of its meetings is limited so that the policy of
66 this state in favor of public meetings is maintained.

67 (3) This section is subject to the Open Government Sunset
68 Review Act pursuant to s. 119.15, and shall stand repealed on
69 October 2, 2014, unless reviewed and saved from repeal through
70 reenactment by the Legislature.

71 Section 2. The Legislature finds that it is a public
72 necessity that any meeting or portion of a meeting of the
73 governing board of a public seaport authority at which criminal
74 investigative information or criminal intelligence information
75 is discussed or a security briefing is given by the Department
76 of Law Enforcement be held exempt from s. 286.011, Florida
77 Statutes, and s. 24(b), Article I of the State Constitution. The
78 Legislature also finds that it is a public necessity that an
79 audio or video recording of, and any minutes and notes generated
80 during, a closed meeting or closed portion of a meeting of the
81 governing board of a public seaport authority be held exempt
82 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
83 the State Constitution until such time as the criminal
84 investigative information or criminal intelligence information
85 heard or discussed at such meeting ceases to be active or the
86 seaport security plan ceases to be effective. The boards are
87 briefed on information of a highly sensitive nature involving

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88 terrorism activity, counterterrorism methodologies, and
89 planning, training, and operational activities of a coordinated
90 intergovernmental prevention, protection, and response strategy
91 that requires discussion of specific information related to
92 these activities. Public discussion of these activities would
93 result in the sharing of data, methods, and operational
94 techniques that could be used by persons intent on doing harm to
95 the state to perpetrate a terrorist attack. Knowledge of this
96 level of planning and operational information could result in
97 the successful execution of an attack against the residents of
98 this state or nation. This information is exempt from public
99 disclosure pursuant to s. 119.071, Florida Statutes, and if the
100 meetings at which this exempt information is discussed were open
101 to the public, the purpose of the exemptions would be defeated.
102 The board must be able to hear and discuss this exempt
103 information in full in order to make sound fiduciary decisions
104 based on risks, threats, and vulnerabilities to the critical
105 infrastructure owned and operated by the seaport authority to
106 protect the welfare of the people of this state. The ability to
107 fully understand and discuss the details of criminal
108 investigative information and criminal intelligence information
109 related to terrorist activities and counterterrorism measures
110 being considered as part of an overall discussion of strategic
111 planning and funding recommendations for the purchase of
112 specialized equipment, training, or services is critical to the
113 ability of the board to defend against terrorist attacks.

114 Section 3. This act shall take effect on the same date that
115 SB ____ or similar legislation takes effect, if such legislation
116 is enacted in the same legislative session or an extension

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thereof and becomes law.