

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 991 Pub. Rec./School District After-Drill Report

**SPONSOR(S):** Rodrigues

**TIED BILLS:** HB 989 **IDEN./SIM. BILLS:** SB 800

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	10 Y, 0 N	Beagle	Ahearn
2) Government Operations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

A security system plan or portion thereof for any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property held by an agency is confidential and exempt from s. 24(a), Art. I of the State Constitution. A security system plan includes threat assessments conducted by any agency; threat response plans; emergency evacuation plans; and sheltering arrangements.

HB 989 requires each public school to submit to the school district an after-drill report detailing each emergency evacuation drill or lockdown drill conducted by the school. The after-drill reports may include recommendations for improving lockdown procedures made by law enforcement and fire department personnel.

The bill creates a public records exemption for after-drill reports and recommendations made by law enforcement and fire department personnel.

The bill provides for repeal of the exemption on October 2, 2018, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution. The bill also provides an effective date that is contingent upon the passage of HB 989.

The bill does not appear to have a fiscal impact on state or local government.

**Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public records or public meeting exemption. The bill creates a public meeting exemption; thus, it requires a two-thirds vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### **Public Records Law**

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record held by governmental entity, including district school boards. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.<sup>1</sup>

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose.<sup>2</sup> In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.<sup>3</sup>

##### **Public Record Exemptions -- Security System Plans**

The law defines "security system plan" to include all:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems;
- Threat assessments conducted by any agency or any private entity;
- Threat response plans;
- Emergency evacuation plans;
- Sheltering arrangements; or
- Manuals for security personnel, emergency equipment, or security training.

A security system plan or portion thereof for any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property held by an agency is confidential and exempt from s. 24(a), Art. I of the State Constitution.<sup>4</sup>

#### **House Bill 989**

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<sup>1</sup> Section 24(c), Art. I of the State Constitution.

<sup>2</sup> Section 119.15(6)(b), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 119.071(3)(a), F.S.

HB 989 requires each public school to submit to the school district an after-drill report detailing each emergency evacuation drill or lockdown drill conducted by the school. The after-drill reports may include recommendations for improving lockdown procedures made by law enforcement and fire department personnel.

### **Effect of Proposed Changes**

The bill creates a public records exemption for after-drill reports of public school emergency evacuation and lockdown drills and recommendations made by law enforcement and fire department personnel. The bill states that the Legislature finds that it is a public necessity that information contained in a school district's after-drill report and the recommendations from participating law enforcement officers or fire officials be made exempt from public records requirements. Because this information may reveal strengths and weaknesses in the school's security, a person who intends harm, possibly deadly harm, could use the information against the school's students, employees, and faculty members. Failing to exempt this information from public records requirements could expose a school's safety measures to a person who means ill will or is mentally unstable and could hamper the school's efforts to keep its students, employees, and faculty members safe and secure. Accordingly, the Legislature finds that the harm to a school's students, employees, and faculty members which may result from the release of this information outweighs any public benefit derived from disclosure to the public.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1006.07, F.S., relating to District school board duties relating student discipline and school safety; creates a public record exemption.

**Section 2.** Provides a public necessity statement.

**Section 3.** Provides an effective date that is contingent upon the passage of HB 989.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

**Vote Requirement**

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it includes a public necessity statement.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for after-drill reports of public school emergency evacuation and lockdown drills and recommendations made by law enforcement and fire department personnel. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.