

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Education Committee
2 Representative Leek offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6
7 Section 1. Section 1004.055, Florida Statutes, is created
8 to read:

9 1004.055 Security of data and information technology in
10 state postsecondary education institutions.-

11 (1) All of the following data or information from
12 technology systems owned, under contract, or maintained by a
13 state university or a Florida College System institution are
14 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
15 of the State Constitution:

16 (a) Records held by the university or institution which

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17 identify detection, investigation, or response practices for
18 suspected or confirmed information technology security
19 incidents, including suspected or confirmed breaches, if the
20 disclosure of such records would facilitate unauthorized access
21 to or unauthorized modification, disclosure, or destruction of:

22 1. Data or information, whether physical or virtual; or

23 2. Information technology resources, which include:

24 a. Information relating to the security of the

25 university's or institution's technologies, processes, and

26 practices designed to protect networks, computers, data

27 processing software, and data from attack, damage, or

28 unauthorized access; or

29 b. Security information, whether physical or virtual,

30 which relates to the university's or institution's existing or

31 proposed information technology systems.

32 (b) Those portions of risk assessments, evaluations,

33 audits, and other reports of the university's or institution's

34 information technology security program for its data,

35 information, and information technology resources which are held

36 by the university or institution, if the disclosure of such

37 records would facilitate unauthorized access to or the

38 unauthorized modification, disclosure, or destruction of:

39 1. Data or information, whether physical or virtual; or

40 2. Information technology resources, which include:

41 a. Information relating to the security of the

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42 university's or institution's technologies, processes, and
43 practices designed to protect networks, computers, data
44 processing software, and data from attack, damage, or
45 unauthorized access; or

46 b. Security information, whether physical or virtual,
47 which relates to the university's or institution's existing or
48 proposed information technology systems.

49 (2) Those portions of a public meeting as specified in s.
50 286.011 which would reveal data and information described in
51 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I
52 of the State Constitution. No exempt portion of an exempt
53 meeting may be off the record. All exempt portions of such a
54 meeting must be recorded and transcribed. The recording and
55 transcript of the meeting must remain confidential and exempt
56 from disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the
57 State Constitution unless a court of competent jurisdiction,
58 following an in camera review, determines that the meeting was
59 not restricted to the discussion of data and information made
60 confidential and exempt by this section. In the event of such a
61 judicial determination, only that portion of the transcript
62 which reveals nonexempt data and information may be disclosed to
63 a third party.

64 (3) The records and portions of public meeting recordings
65 and transcripts described in subsection (1) must be available
66 to: the Auditor General; the Cybercrime Office of the Department

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67 of Law Enforcement; for a state university, the Board of
68 Governors; and for a Florida College System institution, the
69 State Board of Education. Such records and portions of meetings,
70 recordings, and transcripts may be made available to a state or
71 federal agency for security purposes or in furtherance of the
72 agency's official duties.

73 (4) The exemptions listed in this section apply to such
74 records or portions of public meetings, recordings, and
75 transcripts held by the university or institution before, on, or
76 after the effective date of this act.

77 (5) This section is subject to the Open Government Sunset
78 Review Act in accordance with s. 119.15 and shall stand repealed
79 on October 2, 2022, unless reviewed and saved from repeal
80 through reenactment by the Legislature.

81 Section 2. (1)(a) The Legislature finds that it is a
82 public necessity that the following data or information from
83 technology systems owned, under contract, or maintained by a
84 state university or a Florida College System institution be
85 confidential and exempt from s. 119.07(1), Florida Statutes, and
86 s. 24(a), Article I of the State Constitution:

87 1. Records held by the university or institution which
88 identify detection, investigation, or response practices for
89 suspected or confirmed information technology security
90 incidents, including suspected or confirmed breaches, if the
91 disclosure of such records would facilitate unauthorized access

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92 to or unauthorized modification, disclosure, or destruction of:

93 a. Data or information, whether physical or virtual; or

94 b. Information technology resources, which include:

95 (I) Information relating to the security of the
96 university's or institution's technologies, processes, and
97 practices designed to protect networks, computers, data
98 processing software, and data from attack, damage, or
99 unauthorized access; or

100 (II) Security information, whether physical or virtual,
101 which relates to the university's or institution's existing or
102 proposed information technology systems.

103 2. Those portions of risk assessments, evaluations,
104 audits, and other reports of the university's or institution's
105 information technology security program for its data,
106 information, and information technology resources which are held
107 by the university or institution, if the disclosure of such
108 records would facilitate unauthorized access to or the
109 unauthorized modification, disclosure, or destruction of:

110 a. Data or information, whether physical or virtual; or

111 b. Information technology resources, which include:

112 (I) Information relating to the security of the
113 university's or institution's technologies, processes, and
114 practices designed to protect networks, computers, data
115 processing software, and data from attack, damage, or
116 unauthorized access; or

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117 (II) Security information, whether physical or virtual,
118 which relates to the university's or institution's existing or
119 proposed information technology systems.

120 (b) The Legislature also finds that those portions of a
121 public meeting as specified in s. 286.011, Florida Statutes,
122 which would reveal data and information described in subsection
123 (1) are exempt from s. 286.011, Florida Statutes, and s. 24(b),
124 Article I of the State Constitution. The recording and
125 transcript of the meeting must remain confidential and exempt
126 from disclosure under s. 119.07(1), Florida Statutes, and s.
127 24(a), Article 1 of the State Constitution unless a court of
128 competent jurisdiction, following an in camera review,
129 determines that the meeting was not restricted to the discussion
130 of data and information made confidential and exempt by this
131 section. In the event of such a judicial determination, only
132 that portion of the transcript which reveals nonexempt data and
133 information may be disclosed to a third party.

134 (c) The Legislature further finds that it is a public
135 necessity that records held by a state university or Florida
136 College System institution which identify detection,
137 investigation, or response practices for suspected or confirmed
138 information technology security incidents, including suspected
139 or confirmed breaches, be made confidential and exempt from s.
140 119.07(1), Florida Statutes, and s. 24(a), Article I of the
141 State Constitution if the disclosure of such records would

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142 facilitate unauthorized access to or the unauthorized
143 modification, disclosure, or destruction of:

144 1. Data or information, whether physical or virtual; or

145 2. Information technology resources, which include:

146 a. Information relating to the security of the
147 university's or institution's technologies, processes, and
148 practices designed to protect networks, computers, data
149 processing software, and data from attack, damage, or
150 unauthorized access; or

151 b. Security information, whether physical or virtual,
152 which relates to the university's or institution's existing or
153 proposed information technology systems.

154 (d) Such records must be made confidential and exempt for
155 the following reasons:

156 1. Records held by a state university or Florida College
157 System institution which identify information technology
158 detection, investigation, or response practices for suspected or
159 confirmed information technology security incidents or breaches
160 are likely to be used in the investigations of the incidents or
161 breaches. The release of such information could impede the
162 investigation and impair the ability of reviewing entities to
163 effectively and efficiently execute their investigative duties.
164 In addition, the release of such information before an active
165 investigation is completed could jeopardize the ongoing
166 investigation.

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167 2. An investigation of an information technology security
168 incident or breach is likely to result in the gathering of
169 sensitive personal information, including identification
170 numbers, personal financial and health information, and
171 educational records exempt from disclosure under the Family
172 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and ss.
173 1002.225 and 1006.52, Florida Statutes. Such information could
174 be used to commit identity theft or other crimes. In addition,
175 release of such information could subject possible victims of
176 the security incident or breach to further harm.

177 3. Disclosure of a record, including a computer forensic
178 analysis, or other information that would reveal weaknesses in a
179 state university's or Florida College System institution's data
180 security could compromise that security in the future if such
181 information were available upon conclusion of an investigation
182 or once an investigation ceased to be active.

183 4. Such records are likely to contain proprietary
184 information about the security of the system at issue. The
185 disclosure of such information could result in the
186 identification of vulnerabilities and further breaches of that
187 system. In addition, the release of such information could give
188 business competitors an unfair advantage and weaken the security
189 technology supplier supplying the proprietary information in the
190 marketplace.

191 5. The disclosure of such records could potentially

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192 compromise the confidentiality, integrity, and availability of
193 state university and Florida College System institution data and
194 information technology resources, which would significantly
195 impair the administration of vital educational programs. It is
196 necessary that this information be made confidential in order to
197 protect the technology systems, resources, and data of the
198 universities and institutions. The Legislature further finds
199 that this public records exemption be given retroactive
200 application because it is remedial in nature.

201 (2)(a) The Legislature also finds that it is a public
202 necessity that portions of risk assessments, evaluations,
203 audits, and other reports of a state university's or Florida
204 College System institution's information technology security
205 program for its data, information, and information technology
206 resources which are held by the university or institution be
207 made confidential and exempt from s. 119.07(1), Florida
208 Statutes, and s. 24(a), Article I of the State Constitution if
209 the disclosure of such portions of records would facilitate
210 unauthorized access to or the unauthorized modification,
211 disclosure, or destruction of:

- 212 1. Data or information, whether physical or virtual; or
213 2. Information technology resources, which include:
214 a. Information relating to the security of the
215 university's or institution's technologies, processes, and
216 practices designed to protect networks, computers, data

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217 processing software, and data from attack, damage, or
218 unauthorized access; or

219 b. Security information, whether physical or virtual,
220 which relates to the university's or institution's existing or
221 proposed information technology systems.

222 (b) The Legislature finds that it is valuable, prudent,
223 and critical to a state university or Florida College System
224 institution to have an independent entity conduct a risk
225 assessment, an audit, or an evaluation or complete a report of
226 the university's or institution's information technology program
227 or related systems. Such documents would likely include an
228 analysis of the university's or institution's current
229 information technology program or systems which could clearly
230 identify vulnerabilities or gaps in current systems or processes
231 and propose recommendations to remedy identified
232 vulnerabilities.

233 (3) (a) The Legislature further finds that it is a public
234 necessity that those portions of a public meeting which could
235 reveal information described in subsections (1) and (2) be made
236 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
237 I of the State Constitution. It is necessary that such meetings
238 be made exempt from the open meetings requirements in order to
239 protect institutional information technology systems, resources,
240 and data. The information disclosed during portions of meetings
241 would clearly identify a state university's or Florida College

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242 System institution's information technology systems and its
243 vulnerabilities. This disclosure would jeopardize the
244 information technology security of the institution and
245 compromise the integrity and availability of state university or
246 Florida College System institution data and information
247 technology resources, which would significantly impair the
248 administration of educational programs.

249 (b) The Legislature further finds that it is a public
250 necessity that the recording and transcript of those portions of
251 meetings specified in paragraph (a) be made confidential and
252 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
253 Article I of the State Constitution unless a court determines
254 that the meeting was not restricted to the discussion of data
255 and information made confidential and exempt by this act. It is
256 necessary that the resulting recordings and transcripts be made
257 confidential and exempt from the public record requirements in
258 order to protect institutional information technology systems,
259 resources, and data. The disclosure of such recordings and
260 transcripts would clearly identify a state university's or
261 Florida College System institution's information technology
262 systems and its vulnerabilities. This disclosure would
263 jeopardize the information technology security of the
264 institution and compromise the integrity and availability of
265 state university or Florida College System institution data and
266 information technology resources, which would significantly

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267 impair the administration of educational programs.

268 (c) The Legislature further finds that this public meeting
269 and public records exemption must be given retroactive
270 application because it is remedial in nature.

271 Section 3. The Division of Law Revision and Information is
272 directed to replace the phrase "the effective date of this act"
273 wherever it occurs in this act with the date this act becomes a
274 law.

275 Section 4. This act shall take effect upon becoming a law.

276

277

278 **T I T L E A M E N D M E N T**

279 Remove everything before the enacting clause and insert:

280 A bill to be entitled

281 An act relating to public records and public meetings;
282 creating s. 1004.055, F.S.; creating an exemption from
283 public records requirements for certain records held
284 by a state university or Florida College System
285 institution which identify detection, investigation,
286 or response practices for suspected or confirmed
287 information technology security incidents; creating an
288 exemption from public records requirements for certain
289 portions of risk assessments, evaluations, audits, and
290 other reports of a university's or institution's
291 information technology security program; creating an

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292 exemption from public meetings requirements for
293 portions of public meetings which would reveal such
294 data and information; providing an exemption from
295 public records requirements for a specified period for
296 the recording and transcript of a closed meeting;
297 authorizing disclosure of confidential and exempt
298 information to certain agencies and officers;
299 providing retroactive application; providing for
300 future legislative review and repeal of the
301 exemptions; providing statements of public necessity;
302 providing a directive to the Division of Law Revision
303 and Information; providing an effective date.