

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: SPB 7006

INTRODUCER: For consideration by the Regulated Industries Committee

SUBJECT: Public Records and Meetings/NG911 Systems

DATE: February 18, 2025

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Schrader</u>	<u>Imhof</u>	_____	<b>RI Submitted as Comm. Bill/FAV</b>

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**I. Summary:**

SPB 7006 saves from repeal the current public records exemptions for the following information:

- Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.<sup>1</sup>
- Geographical maps indicating the actual or proposed locations of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.

The bill also saves from repeal a public meeting exemption in s. 286.0113(4), F.S., for any portion of a meeting that would reveal the above information, as well as a public record exemption for any recordings or transcripts of the exempt meetings.

The bill also adds Next Generation 911 (NG911) systems to the above systems protected by the public record and public meeting exemptions.

The exemptions are required to protect 911, E911, NG911, or public safety radio communication services to ensure the security of emergency communication infrastructure, structures, and facilities. Any disruption to 911, E911, NG911, or public safety radio communication services during an active shooter or other terror event is very likely to result in greater loss of life and property damage. To function properly, towers and antennae supporting these systems need to be

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<sup>1</sup> Section 119.011(2), F.S., defines an “agency,” under Florida’s public records law in ch. 119, F.S., to include “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

visible, increasing the security risk of such facilities. Because architectural and engineering plans reviewed and held by counties, municipalities, and other government agencies include information about towers, equipment, ancillary facilities, critical systems, and restricted areas, these plans could be used by criminals or terrorists to examine the physical plant for vulnerabilities. Information contained in these documents could aid in the planning and execution of criminal actions, including cybercrime, arson, and terrorism.

The Open Government Sunset Review Act requires the Legislature to review each public record and public meeting exemption 5 years after enactment. These exemptions are scheduled to repeal on October 2, 2025. The bill revises the scheduled repeals and sets them for repeal on October 2, 2030.

The bill takes effect upon becoming a law.

## II. Present Situation:

### Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>2</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>3</sup> In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>4</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>5</sup> The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>6</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>7</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official

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<sup>2</sup> FLA. CONST. art. I, s. 24(a).

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

<sup>4</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S., and FLA. CONST. art. I, s. 24(b). Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

<sup>5</sup> Public records laws are found throughout the Florida Statutes.

<sup>6</sup> Section 119.01(1), F.S.

<sup>7</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

The Legislature may create an exemption to public records requirements by passing a general law by a two-thirds vote of each of the House and the Senate.<sup>10</sup> The exemption must explicitly lay out the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup> A statutory exemption, which does not meet these two criteria, may be unconstitutional and may not be judicially saved.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>13</sup> Records designated “confidential and exempt” may be released by the records custodian only under the circumstances defined by statutory exemptions. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>14</sup>

### Open Meetings Laws

The Florida Constitution provides that the public has a right to access governmental meetings.<sup>15</sup> Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.<sup>16</sup> This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.<sup>17</sup>

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”<sup>18</sup> or the

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<sup>8</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

<sup>11</sup> *Id.*

<sup>12</sup> *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>13</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>14</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>15</sup> FLA. CONST., art. I, s. 24(b).

<sup>16</sup> *Id.*

<sup>17</sup> FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

<sup>18</sup> *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

“Sunshine Law,”<sup>19</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.<sup>20</sup> The board or commission must provide the public reasonable notice of such meetings.<sup>21</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.<sup>22</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>23</sup> Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.<sup>24</sup> A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.<sup>25</sup>

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.<sup>26</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>27</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>28</sup>

### **Open Government Sunset Review Act**

Section 119.15, F.S., the Open Government Sunset Review Act (OGSR), prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>29</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or a substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>30</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>31</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>32</sup>

<sup>19</sup> *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

<sup>20</sup> Section 286.011(1)-(2), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> Section 286.011(6), F.S.

<sup>23</sup> Section 286.011(2), F.S.

<sup>24</sup> Section 286.011(1), F.S.

<sup>25</sup> Section 286.011(3), F.S.

<sup>26</sup> FLA. CONST., art. I, s. 24(c).

<sup>27</sup> *Id.*

<sup>28</sup> *See supra* note 12.

<sup>29</sup> Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

<sup>30</sup> Section 119.15(3), F.S.

<sup>31</sup> Section 119.15(6)(b), F.S.

<sup>32</sup> Section 119.15(6)(b)1., F.S.

- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>33</sup> or
- It protects trade or business secrets.<sup>34</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>35</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption. If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>36</sup> If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.<sup>37</sup>

### Florida 911 System

Since 1973, the state of Florida, in conjunction with Florida's counties, has funded technological advancements in statewide emergency number systems (i.e. 911 systems) for emergency communications between citizens and visitors and emergency services. Basic 911 service was established statewide in 1997. In 2005, wireline enhanced E911 service was implemented in all of Florida's 67 counties to obtain a 911 caller's telephone number and address. In 2007, Florida's wireless 911 board transitioned to the E911 Board with the intent of implementing enhanced 911 services. Phase I of the enhanced services provided call back numbers and the location of cell sites utilized for making the call into 911; Phase II provided location information for the actual cellular caller. These enhancements were completed March 31, 2008.<sup>38</sup> Currently, Florida's counties are working on technical, funding, and deployment issues in an effort to provide statewide text-to-911 services. As of February 2025, 64 of Florida's 67 counties offer text-to-911 service.<sup>39</sup>

<sup>33</sup> Section 119.15(6)(b)2., F.S.

<sup>34</sup> Section 119.15(6)(b)3., F.S.

<sup>35</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>36</sup> FLA. CONST. art. I, s. 24(c).

<sup>37</sup> Section 119.15(7), F.S.

<sup>38</sup> Department of Management Services, *Florida 911*,

[https://www.dms.myflorida.com/business\\_operations/telecommunications/public\\_safety\\_communications/florida\\_911](https://www.dms.myflorida.com/business_operations/telecommunications/public_safety_communications/florida_911) (last visited: Feb 13, 2025).

<sup>39</sup> Department of Management Services, *Florida Text-to-911 Status (by county)*,

<https://www.arcgis.com/apps/dashboards/3a78afa830ca4b40bb8adb6ac0c45b25> (last visited Feb 13, 2025).

## **2023 Revisions to Florida’s Emergency Communications Law**

In 2023, Florida passed SB 1418 which made several changes to Florida’s Emergency Communications Law support to reflect the transition from enhanced 911 (E911) to Next Generation 911 (NG911), to revise legislative intent regarding such services, and to revise the composition, name, duties, and meeting frequency of the current E911 Board (renamed in the bill to be the Emergency Communications Board [EC Board]).<sup>40</sup> Under the bill, the EC Board was given the additional responsibility of advocating and developing policy recommendations to ensure interoperability and connectivity between public safety communication systems within the state. The EC Board was also authorized, under the bill, to establish a schedule for implementing NG911 systems, public safety radio communications systems, and other public safety communications improvements. The EC Board may prioritize disbursement of revenues pursuant to this schedule to implement 911 services in the most efficient and cost-effective manner.

The bill also revised the distribution of revenue collected from a monthly fee to fund 911 services assessed on voice communications services in the state, removed county exceptions to the state’s uniform rate for this fee, and revised the expenditures that are eligible to be paid by revenue collected from this fee. The EC Board was directed to ensure that county recipients of funds only use such funds for the purposes for which they have been provided. If the EC Board determines such funds were not used for the purposes for which they were provided, the EC Board was authorized to secure county repayment of improperly used funds. Changes, modifications, or upgrades to the emergency communications systems or services must be made in cooperation with the head of each law enforcement agency served by the primary Public Safety Answering Point (PSAP) in each county.

The bill also required the Department of Management Services Division of Telecommunications to develop a plan by December 30, 2023, to upgrade 911 PSAPs within the state to allow the transfer of an emergency call from one local, multijurisdictional, or regional E911 system to another local, multijurisdictional, or regional E911 system in the state by December 30, 2033.

### **Public Record and Public Meeting Exemptions Related to Security and Firesafety**

Current law provides public record and public meeting exemptions for certain information related to security systems. The law specifies the circumstances under which the information may be disclosed and to whom it may be disclosed.

#### ***Security and Firesafety Plan***

Section 119.071(3)(a)1., F.S., defines a “security or firesafety plan” to include:

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

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<sup>40</sup> Chapter 2023-55, Laws of Fla.

- Sheltering arrangements; or
- Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.

A security or firesafety plan or any portion thereof that is held by an agency<sup>41</sup> is confidential and exempt from public record requirements if the plan is for any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property.<sup>42</sup> An agency is authorized to disclose the confidential and exempt information:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state or federal agency in furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.<sup>43</sup>

Any portion of a meeting that would reveal a security or firesafety system plan or portion thereof is also exempt from public meetings requirements.<sup>44</sup>

### ***Building Plans, Blueprints, Schematic Drawings and Diagrams***

Section 119.071(3)(b)1., F.S., makes confidential and exempt from public record requirements building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency.

This information may be disclosed:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities;
- To a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or
- Upon a showing of good cause before a court of competent jurisdiction.<sup>45</sup>

The entities or persons receiving such information must maintain the exempt status of the information.<sup>46</sup>

Section 119.071(3)(c)1., F.S., makes confidential and exempt from public record requirements building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service

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<sup>41</sup> *Supra* note 1.

<sup>42</sup> Section 119.071(3)(a)2., F.S.

<sup>43</sup> Section 119.071(3)(a)3., F.S.

<sup>44</sup> Section 286.0113(1), F.S.

<sup>45</sup> Section 119.071(3)(b)3., F.S.

<sup>46</sup> Section 119.071(3)(b)4., F.S.

development, office development, health care facility, or hotel or motel development.<sup>47</sup> Section 119.071(3)(c)3., F.S., specifies that this exemption does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

### ***Information relating to the Nationwide Public Safety Broadband Network***

Section 119.071(3)(d), F.S., makes confidential and exempt from public records requirements information relating to the Nationwide Public Safety Broadband Network established pursuant to 47 U.S.C. ss. 1401 et seq., held by an agency if the release would reveal:

- The design, development, construction, deployment, and operation of network facilities;
- Network coverage, including geographical maps indicating actual or proposed locations of network infrastructure or facilities;
- The features, functions, and capabilities of network infrastructure and facilities;
- The features, functions, and capabilities of network services provided to first responders, as defined in s. 112.1815, F.S., and other network users;
- The design, features, functions, and capabilities of network devices provided to first responders and other network users; or
- Security, including cybersecurity, of the design, construction, and operation of the network and associated services and products.

### **Specific Cybersecurity Public Record and Public Meeting Exemptions**

In 2022, the Legislature enacted s. 119.0725(3), F.S., to create a new public records exemption, applicable to all agencies, for certain information relating to cybersecurity. Specifically, the following information is made confidential and exempt from public inspection and copying requirements:

- Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of information technology systems, operational technology systems, or data of an agency.
- Information related to critical infrastructure.<sup>48</sup>
- Cybersecurity incident information contained in certain reports.
- Network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches, if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:
  - Data or information, whether physical or virtual; or
  - Information technology resources, which include an agency’s existing or proposed information technology systems.

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<sup>47</sup> This paragraph provides definitions for “attractions and recreation facility,” “entertainment or resort complex,” “Industrial complex,” “retail and service development,” “office development,” “health care facility,” “hotel or motel development.” See s. 119.071(3)(c)5., F.S.

<sup>48</sup> “Critical infrastructure” means existing and proposed information technology and operation technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety. See s. 119.0725(1)(b), F.S.



Section 119.0725(3), F.S., also creates a public meeting exemption for any portion of a meeting that would reveal the information made confidential and exempt pursuant to s. 119.0725(2), F.S.; however, any portion of an exempt meeting must be recorded and transcribed. The recording and transcript are confidential and exempt from public record inspection and copying requirements.

The exemptions codified in s. 119.0725, F.S., stand repealed on October 2, 2027, unless reviewed and saved from repeal by reenactment by the legislature.

### **Public Record and Meeting Exemptions Specific to 911, E911, and Public Safety Radio Communications Systems**

In 2020, the Legislature created public record exemptions in s. 119.071(3)(e), F.S., for the following information:<sup>49</sup>

- Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.
- Geographical maps indicating the actual or proposed locations of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.

Also, in 2020, the Legislature created a public meeting exemption in s. 286.0113(4), F.S.,<sup>50</sup> for any portion of a meeting that would reveal the above information, as well as a public record exemption for any recordings or transcripts of the exempt meetings.

In expressing the need for the above public records and public meetings exemptions, the bill's public necessity statements cite to:

- The need to ensure the security of emergency communication infrastructure, structures, and facilities;
- 911, E911, and public safety radio communication facilities, including towers and antennae, being a vital link in the chain of survival;
- The need that such critical infrastructure be protected as any disruption during an active shooter or other terror event is very likely to result in greater loss of life and property damage;
- The need for towers and antennae to be visible, increasing the security risk of such facilities. Because architectural and engineering plans reviewed and held by counties, municipalities, and other government agencies include information about towers, equipment, ancillary facilities, critical systems, and restricted areas, these plans could be used by criminals or terrorists to examine the physical plant for vulnerabilities; and

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<sup>49</sup> Chapter 2020-13, Laws of Fla.

<sup>50</sup> *Id.*

- Information contained in these documents could aid in the planning of and execution of criminal actions, including cybercrime, arson, and terrorism.

The public record and public meeting exemptions stand repealed on October 2, 2025, unless reviewed and saved from repeal by the Legislature under the Open Government Sunset Review Act.

### **Open Government Sunset Review Findings and Recommendations**

Staff of the Senate Committee on Regulated Industries and the House of Representatives Ethics, Elections & Open Government Subcommittee<sup>51</sup> jointly developed a survey requesting that operators review and provide feedback on the public records exception in s. 119.071(3)(e), F.S., and the public meetings exception in s. 286.0113(4), F.S. These surveys were provided to the Florida's counties, law enforcement agencies, and 911 dispatchers.

Staff of the Senate Committee on Regulated Industries received a total of 54 responses to this survey. Of the 49 respondents providing feedback regarding the public records exception in s. 119.071(3)(e), F.S., 42 responded that the paragraph be reenacted "as is." Seven respondents suggested that the paragraph be reenacted with changes. Similarly, of the 46 respondents providing feedback regarding the public meetings exception in s. 286.0113(4), F.S., 41 responded that the subsection be reenacted "as is." Five respondents suggested that the paragraph be reenacted with changes.

The changes suggested by the respondents included adding NG911 revisions, data obtained from 911 calls and operations, software applications, and technological components of the public safety communications system to the exemption.

Respondents also noted some additional areas of potential overlap of protection with s. 119.071(3)(e), F.S., which include:

- The Federal Wireless Communications and Public Safety Act of 1999;
- Rules of the Public Safety and Homeland Security Bureau;
- The Federal Communications Commission's rules on E911;
- Section 119.071(3)(a), F.S., which provides exemptions for security and firesafety system plans;
- Section 119.071(3)(b), F.S., which provides exemptions for building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency;
- Section 119.071(2), F.S., which provides exemptions for agency investigations;
- Section 119.0725, F.S., which provides exemptions for specified cybersecurity risks;
- Section 365.171, F.S., which provides exemptions for records, recordings, or information obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency;

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<sup>51</sup> Renamed the Government Operations Subcommittee by House Rule 7.1(a)(8)a.

- Article 1, Section 16 (b)-(e) of the Florida Constitution (also known as Marsy’s Law).

However, the respondents appear to believe these compliment the exemptions under review, but do not replace the need for the exemption.

### III. Effect of Proposed Changes:

**Section 1** amends s. 119.071(3)(e), F.S., to revise the scheduled repeal date of the current public records exemptions for the following information:

- Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the structural elements of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio communication services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.<sup>52</sup>
- Geographical maps indicating the actual or proposed locations of 911, E911, or public safety radio communication system infrastructure, including towers, antennae, equipment or facilities used to provide 911, E911, or public safety radio services, or other 911, E911, or public safety radio communication structures or facilities owned and operated by an agency.

The bill also adds Next Generation 911 (NG911) systems to the above public record exemptions. Under s. 119.15, F.S., a law that substantially amends an existing exemption must be repealed at the end of 5 years and reviewed by the Legislature before the scheduled repeal date. An exemption is substantially amended if it expands the scope of the exemption to include more records or information and to include meetings as well as records. NG911 is a new program currently under development.

The revised scheduled date of repeal of the section would be October 2, 2030.

**Section 2** amends s. 286.0113(4), F.S., to revise the scheduled repeal of a public meeting exemption in s. 286.0113(4), F.S., for any portion of a meeting that would reveal the above information, as well as a public record exemption for any recordings or transcripts of the exempt meetings. The revised scheduled date of repeal of the section would be October 2, 2030.

The bill also adds Next Generation 911 (NG911) systems to the above public meeting exemption.

**Section 3** provides a statement of public necessity as required by s. 24(c), Article I of the Florida Constitution stating that such protections are necessary to ensure the security of emergency communication infrastructure, structures, and facilities—this includes the NG911 system.

**Section 4** provides that the bill is effective upon becoming a law.

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<sup>52</sup> *Supra* note 1.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

**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 bill creating or expanding an exemption to the public records requirements. This bill does expand an exemption; thus, the bill does require a two-thirds vote to be enacted.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill does expand an exemption; thus, a statement of public necessity is required.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 119.071 and 286.0113.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.