

STORAGE NAME: s0024C.sec.doc

DATE: December 3, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
SELECT COMMITTEE ON SECURITY
ANALYSIS**

BILL #: SB 24-C

RELATING TO: Domestic Security/Counter-terrorism

SPONSOR(S): Senators Crist and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) SECURITY, SELECT
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill requires the Florida Department of Law Enforcement (FDLE) to coordinate and direct the law enforcement, initial emergency, and other initial responses to acts of terrorism within or affecting Florida. It directs FDLE to work closely with the Division of Emergency Management, other law enforcement agencies, fire and rescue agencies, first-responder agencies, and others involved in preparation against and in response to acts of terrorism.

The bill provides for the executive director of FDLE, or his appointee, to serve as the Chief of Domestic Security Initiatives and sets forth duties of the chief. The chief's duties include: coordinating ongoing FDLE assessments on terrorism and preparing recommendations based on those assessments; using regional task forces and public or private resources to support and perform the department's terrorism-related duties; conducting security assessments of state owned or leased buildings and facilities and making recommendations for minimum standards or security enhancements as needed; and submitting recommended best practices for safety and security to the Governor and the Legislature.

The bill establishes Regional Domestic Security Task Forces in each of FDLE's seven operational regions to serve as advisors to FDLE and the Chief of Domestic Security Initiatives. The bill establishes the goals and objectives of the task forces and provides for equipment, training, and funding recommendations by the task forces. The bill requires the task forces to work to assure that hate-driven acts resulting from acts of terrorism are appropriately investigated.

The bill defines the term "terrorism" as an activity that involves a violent act or an act dangerous to human life that is a violation of state or federal criminal laws and is an act that appears to be intended to: a) intimidate, injure, or coerce a civilian population; b) influence the policy of a government by intimidation or coercion; or c) affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

The bill is effective upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Emergency Management

The State Emergency Management Act is set forth under Chapter 252, Florida Statutes. This act gives the Governor power to declare a state of emergency by executive order or proclamation and to terminate it. A state of emergency may not exceed 60 days unless renewed by the Governor. The Legislature may terminate a state of emergency at any time by concurrent resolution.

After the terrorist attacks on the United States on September 11, 2001, Governor Bush declared a state of emergency and directed the Florida Department of Law Enforcement (FDLE) and the Florida Division of Emergency Management (DEM) to assess Florida's capability to prevent, mitigate, and respond to a terrorist attack. Under the State plan, FDLE is the lead agency for crisis management and DEM is the lead agency for consequence management. For purposes of the assessment, primary workgroups were formed around the state's existing emergency support functions: Emergency Services, Human Services, Critical Infrastructure and Public Information and Awareness. These workgroups collected information about Florida's existing capabilities and capacities and identified areas in which the state's preparedness could be enhanced. Primary recommendations for strengthening Florida's anti-terrorism preparedness were outlined in the report "Assessing Florida's Anti-Terrorism Capabilities."

Based on the recommendations in the assessment, on October 11, 2001, the Governor issued Executive Order 01-300 relating to domestic security. Under this Executive Order, the Governor directed that certain actions be taken immediately, or when necessary, upon legislative approval of funding. Those actions relating to FDLE as directed under Sections One and Three of the Governor's Executive Order will be implemented with the passage of this legislation.

Terrorism

Currently under state law, there is no definition for the term "terrorism." Federal law, under Title 18 USC § 2331(5), defines domestic terrorism to mean activities that:

- (A) Involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
- (B) Appear to be intended -

(i) To intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) Occur primarily within the territorial jurisdiction of the United States.

Florida Department of Law Enforcement

FDLE provides services in partnership with local, state and federal criminal justice agencies to prevent, investigate, and solve crimes. FDLE is responsible for the delivery of investigative, forensic, and information services to Florida's criminal justice community. Investigative authority provided under s. 943.04(2), F.S. gives the FDLE authority to investigate violations of any of the criminal laws of the state and to engage in other investigative activities that will aid local law enforcement in preventing or solving crimes and controlling criminal activity.

FDLE provides investigative and technical assistance to local law enforcement agencies through field investigations of major criminals and their organizations and identifies and investigates organized, multi-jurisdictional violations of Florida law. The department works with local, state and federal agencies to monitor: violent crime, disruptive groups, and domestic terrorism; fraud and economic crime; and narcotics trafficking. As part of its investigative function, FDLE provides for the collection, analysis, and dissemination of strategic criminal intelligence information to identify targets, patterns of criminal activity, and emerging criminal organizations.

Mutual Aid

The Florida Mutual Aid Plan is established under section 23.1231, F.S., and provides for the coordination of state and local law enforcement responses during natural and manmade disasters and emergencies. FDLE administers the Florida Mutual Aid Plan, and the department's commissioner serves as the director of the plan. By virtue of his role as director, the Commissioner of FDLE was authorized under Executive Order 01-300 to serve as, or appoint another member of the department to serve as, Chief of Florida Domestic Security Initiatives to collect, coordinate, and prioritize recommended domestic security efforts in Florida.

C. EFFECT OF PROPOSED CHANGES:

Section 1: Adds subsection (14) to s. 943.03, F.S., to require FDLE to coordinate and direct the law enforcement, initial emergency, and other initial responses to acts of terrorism within or affecting Florida. It directs FDLE to work closely with the Division of Emergency Management, other federal, state, and local law enforcement agencies, fire and rescue agencies, first-responder agencies, and others involved in preparation against terrorist acts.

The executive director of FDLE or his designee shall serve as the Chief of Florida Domestic Security Initiatives to direct and coordinate the counterterrorism efforts and terrorism responses of all agencies involved in the preparation against and response to acts of terrorism.

Section 2: Creates section 943.0310, F.S., to provide findings with respect to counterterrorism efforts and responses that require specialized efforts of emergency management, and provides that such efforts should be coordinated by and through the Florida Department of Law Enforcement, working closely with the Division of Emergency Management and others involved in preparation against acts of terrorism within or affecting the state and in the initial response to terrorist acts.

Section 3: Creates s. 943.0311, F.S., to provide for a Chief of Domestic Security Initiatives (chef) within FDLE, and provides the duties of the chief. The chief is required to coordinate the ongoing departmental assessment of Florida's vulnerability to, and ability to detect and respond to, acts of terrorism within or affecting the state, and to make recommendations to the Governor and the Legislature based on those assessments. The chief will coordinate terrorist vulnerability proposals and will use the Regional Domestic Security Task Forces to support FDLE's role in domestic security initiatives.

The chief is required to use public or private resources to support and perform FDLE terrorism-related duties. This bill requires the Chief of Domestic Security Initiatives to conduct security assessments of buildings and facilities owned or leased by state or local government and to report recommended minimum-security standards or security enhancements to the Governor and the Legislature. This report must identify and prioritize the recommended security enhancements and provide recommendations to maximize federal funding in support of building and facility security. State agencies and local governments are required to cooperate with FDLE and to provide requested information and resources to assist the department in meeting its responsibilities.

The bill requires the chief to develop and submit to the Governor and the Legislature recommended best practices for safety and security. The recommended best practices are not a rule as defined in chapter 120, F.S. The chief is required to review the practices when necessary, but must perform the review at least once each year and submit any recommended changes to the Governor and Legislature.

The bill authorizes the chief to conduct security assessments of a private building or facility at the request of the owner. The chief may prioritize requests, and such prioritization is not agency action that is subject to review under chapter 120, F.S. The chief is authorized to solicit private entities for the purpose of receiving requests to perform security assessments of buildings or facilities and private entities are urged to cooperate with and assist FDLE in meeting its domestic security responsibilities.

By November 1 of each year, the executive director of FDLE must compile, coordinate, and prioritize recommendations and proposals concerning security and present the recommendations and proposals concerning security to the Governor and the Legislature. All recommendations seeking funding shall be prioritized with critical domestic security needs requiring immediate or top-priority funding being clearly identified. These recommendations shall include recommendations to maximize federal funding in support of the state's domestic-security efforts.

Section 4: Creates s. 943.0312, F.S., to establish legislative findings and to reference the need to develop and implement a statewide strategy to address preparation and response efforts by federal, state, and local law enforcement agencies, emergency management agencies, fire and rescue departments, first-responder personnel, and others in dealing with potential or actual terrorist acts within or affecting the state.

The bill provides for the creation of Regional Domestic Security Task Forces in FDLE's seven operational regions to assist FDLE and the Chief of Domestic Security Initiatives in performing their roles and duties with respect to terrorism. The regional task forces will serve in an advisory capacity to FDLE and the chief.

This section provides for FDLE to provide employee support for each task force, subject to an annual appropriation. The bill designates that each task force will be co-chaired by a regional director of FDLE and a local sheriff or police chief. It also establishes membership of each task force to include available representatives from the Division of Emergency Management, the Department of Health, and a local emergency planning committee; representatives of state and

local law enforcement agencies, fire and rescue departments or first responder personnel; and others as deemed appropriate and necessary by the task force co-chairs.

This section also sets forth the goals of each task force to include: coordination of federal, state and local resources; coordination of the collection and dissemination of investigative and intelligence information; and facilitation of responses to terrorist incidents. It provides for the establishment of training standards for law enforcement officers, fire and emergency personnel, and first responder service personnel with regard to acts of terrorism or weapons of mass destruction. It provides for recommendations on funding for equipment purchases, delivery of training, and training requirements to be made to the Governor and Legislature by the Chief of Domestic Security Initiatives as necessary. Each task force must work to assure that hate-driven acts against ethnic groups as a result of terrorism are appropriately investigated.

Members of each regional task force are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, F.S., but may not receive any pay other than salaries normally received from their employers.

Section 5: Creates section 775.30, F.S., to define terrorism as an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of Florida or of the U.S. or involves a violation of the Florida Computer Crimes Act and is intended to intimidate, injure, or coerce a civilian population; influence the policy of a government by intimidation or coercion; or affect the conduct of government through the destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Section 6: This bill takes effect upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

House Bill 1-C, providing appropriations and reductions in appropriations for the 2001-2002 Fiscal Year, contains the following provisions:

- FDLE Regional Anti-Terrorism Task Forces - 30 positions and \$1,799,571 from the General Revenue Fund.
- Terrorist Intelligence Database – 5 positions and \$200,429 from the General Revenue Fund; \$300,000 from the Grants and Donations Trust Fund.
- Responder and Incident Training - \$2,000,000 from the Criminal Justice Standards and Training Trust Fund.

- Critical Infrastructure Security Assessment and Standards - \$500,000 from the Grants and Donations Trust Fund.
- Domestic Preparedness Program/Equipment - \$9,000,000 from the Grants and Donations Trust Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local governments will incur expenditures for the salaries and benefits, and any associated overtime costs for affected employees.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority the counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON SELECT COMMITTEE ON SECURITY:

Prepared by:

Staff Director:

Lynn Dodson

Thomas Randle/Richard Hixson