

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1829 (PCB SA 03-28) Domestic Security
SPONSOR(S): State Administration and Mack
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>State Administration</u>	<u>6 Y, 0 N</u>	<u>Bond</u>	<u>Everhart</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill requires the state Chief of Domestic Security Initiatives to conduct a security assessment of state agencies by December 1, 2003; encourages local government to do the same; requires a report to the legislature of suggested security enhancements; and declares that security plans and assessments created pursuant to this bill qualify as a security system or plan that is a confidential and exempt public record.

This bill as written appears to have a fiscal impact to the state in FY 2003-2004 of \$2 million, which cost will be recurring every two years hereafter. See Fiscal Comments herein. This bill does not appear to have a fiscal impact on local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1829.sa.doc
DATE: April 9, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

This bill requires the Chief of Domestic Security Initiatives to conduct a comprehensive study of state agencies.

B. EFFECT OF PROPOSED CHANGES:

Background

In Special Session in late 2001, not long after the attack of September 11th, the Legislature created the office of Chief of Domestic Security Initiatives within the Florida Department of Law Enforcement. Section 943.0311, F.S., in gave the Chief of Domestic Security Initiatives the power and duty to assess state and local plans to secure the state against terrorism.

Effect of Bill

This bill modifies the powers and duties of the Chief of Domestic Security Initiatives. It provides that each state agency shall bear the cost of security assessments of state agencies. The first assessment of every agency must be completed by December 1, 2003; subsequent assessments are to be scheduled by the Chief of Domestic Security. The Chief of Domestic Security Initiatives may also encourage local governments to submit to security assessments.

The Chief of Domestic Security Initiatives is also charged with the responsibility of creating a "best practices" security model for use by state and local governments. This bill specifies that the best practice document qualifies as a threat assessment that is currently considered a confidential and exempt public record under s. 119.071, F.S.¹

¹ Section 119.071, F.S., provides general exemptions from inspection or copying of public records, specifically: A security system plan or portion thereof for:

- (1) Any property owned by or leased to the state or any of its political subdivisions; or
- (2) Any privately owned or leased property

which plan or portion thereof is in the possession of any agency, as defined in s. 119.011, is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. As used in this section, the term a "security system plan" includes 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 as defined in s. 119.011 or any private entity; threat response plans; emergency evacuation plans; sheltering arrangements; or manuals for security personnel, emergency equipment, or security training. This exemption is remedial in nature and it is the intent of the Legislature that this exemption be applied to security system plans received by an agency before, on, or after the effective date of this section. Information made confidential and exempt by this section may be disclosed by the custodial agency to another state or federal agency to prevent, detect, guard against, respond to, investigate, or manage the consequences of any attempted

Section 94.0311(5), F.S., requires the Chief of Domestic Security Initiatives to “compile, coordinate, and prioritize recommendations and proposals regarding security” in a report to the Governor and the legislative leaders. This bill specifies that such report qualifies as a threat assessment that is currently considered a confidential and exempt public record under s. 119.071, F.S.

C. SECTION DIRECTORY:

Section 1 amends s. 943.0311, F.S., to require state agencies to conduct a security analysis.

Section 2 provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures:

This bill as written appears to have a fiscal impact to the state in FY 2003-2004 of \$2 million. The bill provides that the Department of Law Enforcement may determine the schedule by which future security assessments are to be made; accordingly, future costs will be at the discretion of FDLE. The department states that it expects to schedule security assessments every other year, creating a recurring fiscal expense every other year hereafter of \$2 million. This fiscal cost will be shared by all of the state agencies proportionate to their size and complexity, this bill requires that agencies reimburse FDLE for the costs associated with this bill. It is unknown how much will be charged to the general revenue fund and how much can be funded from trust funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Fiscal Comments provided by FDLE:

PCB SA 03-28 redefines the duties of the Domestic Security Initiatives program by giving the Chief the option to conduct security assessments or have them performed by an outside agency. Costs associated with security assessments shift from the program to the state agencies that own or occupy the facility being assessed. Each agency would be required to cover the costs of the assessment. The bill removes language directing local governments to participate in security assessments. However, if they elect to perform assessments, the costs will be the responsibility of the local government or private entity.

or actual act of terrorism, or to prosecute those persons who are responsible for such attempts or acts, and the confidential and exempt status of such information shall be retained while in the possession of the receiving agency. This section is subject to the Open Government Sunset Review Act of 1995, in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Fiscal Comments provided by the Department of Management Services:

The Department of Management Services reports that State Facilities Inventory includes 3,757 buildings and 54,808,706 square feet of building space. This does not include the state university system. DMS believes that assessing the cost per building is a difficult task, depending on size of the facility, the campus it is located in, whether it is State owned or leased from the private sector, and location (is it 2 hours from the closest highway?). All of these issues play a role in determining a cost for the assessment.

Fiscal Comments by the Committee on State Administration:

At the committee meeting of March 31, 2003, a representative of FDLE testified that these security assessments could be performed by agency staff with assistance from FDLE. FDLE believes that existing agency staff could work this analysis into existing staff time, and that the \$500 per site estimate was an estimate of the agency staff time necessary for each facility. Because they believe that existing staff of the agencies can fit this into existing work schedules, FDLE opined that there may be no fiscal impact to the state as a result of this bill. These assertions assume that existing agency staff has the time to perform an analysis, and the ability to do so. These assertions also ignore the administrative time and expense of creating an inventory of facilities, performing assessment training, distributing assessment materials, and collecting, compiling, and storing the results. If this is the intent of the bill, then amendment may be necessary in order that the bill follow the intent of the proponents that there be minimal fiscal impact upon the General Revenue Fund for FY 2003-2004.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable.
2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill, as drafted, may not follow the intent of the proponents, and may require amendment. See Fiscal Comments.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None. .