

House Bill No. 1801

An act relating to public meetings and public records; creating s. 943.0314, F.S.; providing an exemption from public meetings requirements for meetings or portions of meetings of the Domestic Security Oversight Council at which the council hears or discusses active criminal investigative information or active criminal intelligence information; providing conditions precedent to the closing of such meeting or portion thereof; providing an exemption from public records requirements for an audio or video recording of a closed meeting of the council and any minutes and notes generated during the closed meeting until the criminal investigative information or criminal intelligence information heard or discussed therein ceases to be active; specifying those persons who are authorized to attend a closed meeting of the council; providing for review and repeal; providing a statement of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 943.0314, Florida Statutes, is created to read:

943.0314 Public records and public meetings exemptions; Domestic Security Oversight Council.—

(1)(a) That portion of a meeting of the Domestic Security Oversight Council at which the council will hear or discuss active criminal investigative information or active criminal intelligence information as defined in s. 119.011 is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, if:

1. The chair of the council announces at a public meeting that, in connection with the performance of the council's duties, it is necessary that active criminal investigative information or active criminal intelligence information be discussed.

2. The chair declares the specific reasons that it is necessary to close the meeting, or portion thereof, in a document that is a public record and filed with the official records of the council.

3. The entire closed meeting is recorded. The recording must include the times of commencement and termination of the closed meeting or portion thereof, all discussion and proceedings, and the names of the persons present. No portion of the closed meeting shall be off the record. The recording shall be maintained by the council.

(b) An audio or video recording of, and any minutes and notes generated during, a closed meeting of the council or closed portion of a meeting of the council are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the criminal investigative information or criminal intelligence information heard or discussed therein ceases to be active. Such

audio or video recording and minutes and notes shall be retained pursuant to the requirements of s. 119.021.

(2) Only members of the council, staff supporting the council's functions, and other persons whose presence has been authorized by the chair of the council shall be allowed to attend the exempted portions of council meetings. The council shall ensure that any closure of its meetings as authorized by this section is limited so that the policy of this state in favor of public meetings is maintained.

(3) 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, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that any meeting or portion of a meeting of the Domestic Security Oversight Council at which criminal investigative information or criminal intelligence information is discussed be held exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. The Legislature also finds that it is a public necessity that an audio or video recording of, and any minutes and notes generated during, a closed meeting or closed portion of a meeting of the Domestic Security Oversight Council be held exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the criminal investigative information or criminal intelligence information heard or discussed at such meeting ceases to be active. The council reviews information of a highly sensitive nature involving terrorism activity, counterterrorism methodologies, and planning, training, and operational activities of a coordinated intergovernmental prevention, protection, and response strategy that requires discussion of specific information related to these activities. Public discussion of these activities would result in the sharing of data, methods, and operational techniques that could be used by persons intent on doing harm to the state to perpetrate a terrorist attack. Knowledge of this level of planning and operational information could result in the successful execution of an attack against the residents of this state or nation. This information is exempt from public disclosure pursuant to ss. 119.07(6) and 119.071, Florida Statutes, and if the meetings at which this exempt information is discussed were open to the public, the purpose of the exemptions would be defeated. The council must be able to hear and discuss this exempt information in full in order to make sound recommendations to the Governor and Legislature regarding strategies and activities to protect the welfare of the people of this state. The ability to fully understand and discuss the details of criminal investigative information and criminal intelligence information related to terrorist activities and counterterrorism measures being considered as part of an overall discussion of strategic planning and funding recommendations for the purchase of specialized equipment, training, or services is critical to the ability of the state to defend against terrorist attacks.

Section 3. This act shall take effect on the same date that HB 1715 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes law.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.