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Proposed Committee Substitute by the Committee on Military
Affairs and Domestic Security

A bill to be entitled

An act relating to seaport security; creating s.
311.115, F.S.; establishing the Seaport Security
Standards Advisory Council; providing for membership
and terms of office; providing duties; requiring
reports to the Governor and Legislature; amending s.
311.12, F.S.; revising provisions relating to seaport
security; authorizing the Department of Law
Enforcement to exempt all or part of a port from
certain security requirements; providing criteria for
determining eligibility to enter restricted access
areas; establishing a statewide access eligibility
reporting system within the department; requiring all
access eligibility to be submitted to the department
and retained within the system; deleting the
requirement that seaports promptly notify the
department of any changes in access levels; requiring
changes in access eligibility status to be reported
within a certain time; providing for fees; providing
an expedited process for obtaining access to
restricted areas; specifying the process for
conducting criminal history checks and for the
retention of fingerprint information; providing a
criminal penalty for providing false information
related to obtaining access to restricted seaport
areas; providing additional criminal offenses that
disqualify a person from employment by or access to a



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28 seaport; deleting the requirement that the department
29 notify the port authority that denied employment of
30 the final disposition of a waiver request from
31 background screening requirements; allowing, rather
32 than requiring, certain applications for a waiver from
33 security requirements to be submitted to the Domestic
34 Security Council for review; requiring a copy of the
35 department's legislative report to be provided to each
36 seaport governing body or authority; requiring the
37 department to provide assessment briefings to seaport
38 authority governing boards and local regional domestic
39 security task force co-chairs at least once per year;
40 requiring certain board members to attend assessment
41 briefings; adding the department to those entities
42 responsible for allocating funds for security
43 projects; repealing s. 311.111, F.S., relating to
44 unrestricted and restricted public access areas and
45 secured restricted access areas; repealing s. 311.125,
46 F.S., relating to the Uniform Port Access Credential
47 System and the Uniform Port Access Credential Card;
48 amending s. 311.121, F.S.; revising the membership of
49 the Seaport Security Officer Qualification, Training,
50 and Standards Coordinating Council; amending ss.
51 311.123, 311.124, 311.13, 943.0585, and 943.059, F.S.;
52 conforming terms and cross-references; directing the
53 Office of Drug Control to commission an update of the
54 Florida Seaport Security Assessment 2000, which shall
55 be presented to the Legislature by a certain date;
56 providing a contingency with respect to provisions



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57 authorizing unannounced inspections of seaports;
58 providing an effective date.

59
60 Be It Enacted by the Legislature of the State of Florida:

61
62 Section 1. Section 311.115, Florida Statutes, is created to
63 read:

64 311.115 Seaport Security Standards Advisory Council.—The
65 Seaport Security Standards Advisory Council is created under the
66 Office of Drug Control. The council shall serve as an advisory
67 council as provided in s. 20.03(7).

68 (1) The members of the council shall be appointed by the
69 Governor and consist of the following:

70 (a) Two seaport directors.

71 (b) Two seaport security directors.

72 (c) One designee to represent seaport tenants.

73 (d) One designee to represent seaport workers.

74 (e) One designee from the Attorney General's Office.

75 (f) One designee from the Department of Agriculture and
76 Consumer Services.

77 (g) One designee from the Office of Tourism, Trade, and
78 Economic Development.

79 (h) One designee from the Office of Drug Control.

80 (i) One designee from the Fish and Wildlife Conservation
81 Commission.

82 (j) The Director of the Division of Emergency Management,
83 or designee.

84 (2) In addition to the members designated in paragraph (a),
85 the council may invite a representative of the United States



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86 Coast Guard to attend and participate in council meetings as an
87 ex officio, nonvoting member of the council.

88 (3) Members of the council shall be appointed to 4-year
89 terms. A vacancy shall be filled by the original appointing
90 authority for the balance of the unexpired term.

91 (4) The council shall be chaired by a designee from the
92 Office of Drug Control.

93 (5) Beginning January 15, 2007, and at least every 4 years
94 thereafter, the Office of Drug Control shall convene the council
95 to review the minimum security standards referenced in s.
96 311.12(1) for applicability to and effectiveness in combating
97 current narcotics and terrorism threats to the state's seaports.
98 All sources of information allowed by law shall be used in
99 assessing the applicability and effectiveness of the standards.

100 (6) Council members shall serve without pay; however, per
101 diem and travel allowances may be claimed for attendance at
102 officially called meetings as provided by s. 112.061.

103 (7) The council shall consult with the appropriate area
104 maritime security committees to assess possible impacts to
105 commerce and trade contained in the council's nonclassified
106 recommendations and findings.

107 (8) The recommendations and findings of the council shall
108 be transmitted to the Governor, the President of the Senate, and
109 the Speaker of the House of Representatives.

110 Section 2. Section 311.12, Florida Statutes, is amended to
111 read:

112 (Substantial rewording of section. See
113 s. 311.12, F.S., for present text.)
114 311.12 Seaport security.-



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115 (1) SECURITY STANDARDS.—

116 (a) The statewide minimum standards for seaport security
117 applicable to seaports listed in s. 311.09 shall be those based
118 on the Florida Seaport Security Assessment 2000 and set forth in
119 the Port Security Standards Compliance Plan delivered to the
120 Speaker of the House of Representatives and the President of the
121 Senate on December 11, 2000. The Office of Drug Control within
122 the Executive Office of the Governor shall maintain a sufficient
123 number of copies of the standards for public use at its offices,
124 and provide copies to each affected seaport upon request.

125 (b) A seaport may implement security measures that are more
126 stringent, more extensive, or supplemental to the minimum
127 security standards established by this subsection, except that
128 for purposes of qualifying for employment and access to
129 restricted access areas, a seaport must meet but may not exceed
130 the disqualifying offenses provided in subsection (7).

131 (2) EXEMPTION.—The Department of Law Enforcement may exempt
132 all or part of a seaport listed in s. 311.09 from the
133 requirements of this section if the department determines that
134 activity associated with the use of the seaport or part of the
135 seaport is not vulnerable to criminal activity or terrorism. The
136 department shall periodically review such exemptions to
137 determine if there is a change in use. Such change may warrant
138 removal of all or part of the exemption.

139 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
140 adopt and maintain a security plan specific to that seaport
141 which provides for a secure seaport infrastructure that promotes
142 the safety and security of state residents and visitors and the
143 flow of legitimate trade and travel.



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144 (a) Beginning January 1, 2007, and every 5 years
145 thereafter, each seaport director, with the assistance of the
146 Regional Domestic Security Task Force and in conjunction with
147 the United States Coast Guard, shall revise the seaport's
148 security plan based on the director's ongoing assessment of
149 security risks, the risks of terrorist activities, and the
150 specific and identifiable needs of the seaport for ensuring that
151 the seaport is in substantial compliance with the minimum
152 security standards established under subsection (1).

153 (b) Each adopted or revised security plan must be reviewed
154 and approved by the Office of Drug Control and the Department of
155 Law Enforcement for compliance with federal facility security
156 assessment requirements under 33 C.F.R. s. 105.305 and the
157 minimum security standards established under subsection (1).
158 Within 30 days after completion, a copy of the written review
159 shall be delivered to the United States Coast Guard, the
160 Regional Domestic Security Task Force, and the Domestic Security
161 Oversight Council.

162 (4) RESTRICTED ACCESS AREAS.—Each seaport listed in s.
163 311.09 must clearly designate in seaport security plans, and
164 clearly identify with appropriate signs and markers on the
165 premises of a seaport, all restricted access areas, access
166 eligibility requirements, and corresponding security enforcement
167 authorizations, which may include, but not be limited to, clear
168 notice of the prohibition against possession of concealed
169 weapons and other contraband material on the premises of the
170 seaport, as provided in paragraph (e).

171 (a) The seaport's security plan must set forth the
172 conditions and restrictions to be imposed on persons employed



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173 at, doing business at, or visiting the seaport relating to
174 restricted access areas that are sufficient to provide
175 substantial compliance with the minimum security standards
176 established in subsection (1).

177 (b) Seaport employees and other persons working at the
178 seaport who have regular access to such areas, visitors who have
179 business with the seaport, and cruise ship passengers holding
180 valid boarding documents have express permission to enter a
181 restricted access area.

182 1. Seaport employees or other persons working at the
183 seaport are considered to have "regular access" if they enter a
184 restricted area more than five times in a 90-day period.

185 2. A person who enters a restricted access area five times
186 or less in a 90-day period is considered a "visitor." Upon
187 arrival at a restricted access area, a visitor must, at a
188 minimum, stop at a check point, show valid identification, and
189 receive a visitor's pass before proceeding. The visitor's pass
190 must be plainly displayed on the person of the visitor or in the
191 windshield of the vehicle, and designate which area of the
192 seaport may be accessed by the visitor. Failure to display the
193 visitor's pass shall result in revocation of permission to work
194 at the seaport. Public conveyances, such as buses carrying
195 passengers into restricted access areas, must be able to verify
196 that all passengers have legitimate business at the seaport.
197 Procedures for implementation of this requirement are the
198 responsibility of each seaport.

199 3. Cruise ship passengers are those persons scheduled for
200 immediate departure who have permission to board a ship that is
201 in port. Upon arrival at a restricted access area, cruise ship



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202 passengers must, at a minimum, stop at a check point and show
203 valid identification and boarding documents.

204 4. Any person found in these areas without the proper
205 permission is subject to the trespass provisions of ss. 810.08
206 and 810.09.

207 5. All persons and objects in these areas are subject to
208 search by a sworn state-certified law enforcement officer, a
209 Class D seaport security officer certified under Maritime
210 Transportation Security Act guidelines and s. 311.121, or an
211 employee of the seaport security force certified under the
212 Maritime Transportation Security Act guidelines and s. 311.121.

213 (c) During a period of high terrorist threat level, as
214 designated by the United States Department of Homeland Security
215 or the Department of Law Enforcement, or during an emergency
216 declared at a port by the seaport security director due to
217 events applicable to that particular seaport, the management or
218 controlling authority of the port may temporarily designate any
219 part of the seaport property as a restricted access area. The
220 duration of such designation is limited to the period in which
221 the high terrorist threat level is in effect or a port emergency
222 exists.

223 (d) As determined by the seaport director's most current
224 risk assessment report under paragraph (3) (a), any restricted
225 access area that has a potential human occupancy of 50 persons
226 or more, any cruise terminal, or any business operation that is
227 adjacent to a public access area must be protected from the most
228 probable and credible terrorist threat to human life.

229 (e) Any person in a restricted access area who has in his
230 or her possession a concealed weapon, or who operates or has



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231 possession or control of a vehicle in or upon which a concealed
232 weapon is placed or stored, commits a misdemeanor of the first
233 degree, punishable as provided in s. 775.082 or s. 775.083. This
234 paragraph does not apply to active-duty certified federal or
235 state law enforcement personnel or persons so designated by the
236 seaport director in writing.

237 (5) ACCESS ELIGIBILITY REPORTING SYSTEM.—Subject to
238 legislative appropriations, the Department of Law Enforcement
239 shall administer a statewide seaport access eligibility
240 reporting system.

241 (a) The system must, at a minimum, include:

242 1. A centralized, secure method of collecting and
243 maintaining fingerprints or other biometric data, or other means
244 of confirming the identity of persons authorized to enter a
245 restricted access area of a seaport;

246 2. A methodology for receiving from and transmitting
247 information to each seaport regarding a person's authority to
248 enter a restricted access area of the seaport;

249 3. A means for receiving prompt notification from a seaport
250 when a person's authorization to enter a restricted access area
251 of a seaport has be suspended or revoked; and

252 4. A means to communicate to seaports when a person's
253 authorization to enter a restricted access area of a seaport has
254 been suspended or revoked.

255 (b) Each seaport listed in s. 311.09 is responsible for
256 granting, modifying, restricting, or denying access to
257 restricted access areas to seaport employees, other persons
258 working at the seaport, visitors who have business with the
259 seaport, or other persons regularly appearing at the seaport.



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260 Each seaport is responsible for access eligibility verification
261 at its location.

262 (c) In accordance with subsection (7), a fingerprint-based
263 criminal history check must be performed on employee applicants,
264 current employees, and other persons working within or
265 authorized to regularly enter a restricted access area. Based
266 upon the criminal history check, each seaport may determine the
267 specific access eligibility to be granted to that person.

268 (d) Upon determining that a person is eligible to enter a
269 restricted access area of a port, the seaport shall, within 3
270 business days, report the determination to the department for
271 inclusion in the system.

272 (e) All information submitted to the department regarding a
273 person's access eligibility screening may be retained by the
274 department for subsequent use in promoting seaport security,
275 including, but not limited to, the review of the person's
276 criminal history status to ensure that the person has not become
277 disqualified for such access and for such other criminal
278 investigative and criminal intelligence purposes designed to
279 stop criminal activity and preserve the safety and security of
280 the seaport.

281 (f) The following fees shall be paid by the seaport,
282 another employing entity, or the person being entered into the
283 system to the department or to the seaport if the seaport is
284 acting as an agent of the department for the purpose of
285 collecting the fees. Except as provided in subparagraph 5.,
286 persons who have been entered into the system may not be charged
287 by more than one seaport for the fees specified in subparagraphs
288 1. through 4.



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289 1. A fee set by the department of at least \$4 to enter a
290 person into the system, and annually thereafter for maintaining
291 the person in the system.

292 2. The cost of the criminal history check under subsection
293 (7).

294 3. An annual retention fee of \$6 for the second and each
295 subsequent year's retention and use of fingerprint or other
296 biometric data, or other identifying information.

297 4. A seaport may charge an additional administrative fee to
298 cover, but not exceed, the amount charged to the seaport to
299 participate in the system.

300 5. A seaport, other than the seaport that entered the
301 person into the system, may charge a fee for the issuance of a
302 local credential authorizing the person to enter restricted
303 access areas in that seaport. Such credentials must be issued
304 for a 5-year period to coincide with the issuance of a federal
305 Transportation Worker Identification Credential described in
306 subsection (6) or the federal criminal history check required
307 under paragraph (7)(e).

308 (g) Each person working at a seaport is eligible to enter a
309 seaport participating in the system based on the level of
310 permission allowed by the seaport that entered the person into
311 the system.

312 (h) Persons, corporations, or other business entities that
313 employ persons to work or do business at seaports shall notify
314 the seaport of the termination, resignation, work-related
315 incapacitation, or death of an employee who has access
316 permission.

317 1. If the seaport determines that the person has been



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318 employed by another appropriate entity or is self-employed for
319 purposes of performing work at the seaport, the seaport may
320 reinstate the person's access eligibility.

321 2. A business entity's failure to report a change in an
322 employee's work status within 3 days after that change may
323 result in revocation of the business entity's access to the
324 seaport.

325 (i) In addition to access permissions granted or denied by
326 seaports, access eligibility may be restricted or revoked by the
327 department if the person is suspected of terrorism or criminal
328 violations that could affect the security of a port or otherwise
329 render the person ineligible for seaport access.

330 (j) Any suspension or revocation of port access must be
331 reported by the seaport to the department within 24 hours.

332 (k) The submission of information known to be false or
333 misleading to the department for entry into the system is a
334 felony of the third degree, punishable as provided in s.
335 775.082, s. 775.083, or s. 775.084.

336 (6) EXPEDITED ACCESS TO RESTRICTED ACCESS AREAS.—A person
337 who possesses a valid federal Transportation Worker
338 Identification Credential (TWIC) may use the following expedited
339 process to obtain authorization to access restricted access
340 areas.

341 (a) The person shall execute an affidavit under oath,
342 providing TWIC identification information and indicating that:

343 1. The TWIC is currently valid and in full force and
344 effect;

345 2. He or she did not receive the TWIC through the waiver
346 process for disqualifying criminal history allowed by federal



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347 law; and

348 3. He or she has not, in any jurisdiction, civilian or
349 military, been arrested for, charged with, or been convicted of,
350 entered a plea of guilty or nolo contendere to, regardless of
351 adjudication, or has not been found not guilty by reason of
352 insanity, of any felony or crime involving a firearm.

353 (b) Upon submission of a completed affidavit as provided in
354 paragraph (a), the completion of the state criminal history
355 check as provided in subsection (7), and payment of all required
356 fees under subsection (5), a seaport may grant the person access
357 to restricted access areas of the port.

358 (c) Any port granting a person access to restricted access
359 areas by reason of this expedited process shall report the grant
360 of access to the Department of Law Enforcement for inclusion in
361 the access eligibility reporting system within 3 business days.

362 (d) The submission of false information on the affidavit
363 required by this section is a felony of the third degree,
364 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
365 Upon conviction of a violation of this provision, the person
366 forfeits all privilege of access to restricted access areas of a
367 seaport, must surrender all state or local port access
368 documents, and is disqualified from future approval for access
369 to any restricted access area of a seaport.

370 (e) Any affidavit form created for use in the expedited
371 process must conspicuously state: "Submission of false
372 information on this affidavit is a felony under Florida law and
373 will, upon conviction, result in disqualification for access to
374 a seaport restricted access area."

375 (f) Upon each 5-year renewal of a person's TWIC, the person



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376 must submit another affidavit as required by this subsection.

377 (7) CRIMINAL HISTORY SCREENING.—A fingerprint-based
378 criminal history check must be performed on employee applicants,
379 current employees, and other persons authorized to regularly
380 enter a restricted access area, or the entire seaport if the
381 seaport security plan does not designate one or more restricted
382 access areas.

383 (a) Any person who has been convicted of, or entered a plea
384 of guilty or nolo contendere to, regardless of adjudication, any
385 of the following offenses is disqualified from employment or
386 unescorted access unless, after release from incarceration or
387 any supervision imposed as a result of sentencing, the person
388 has remained free from a subsequent conviction, regardless of
389 adjudication, of the following listed offenses for at least 7
390 years before the employment or access date under consideration:

- 391 1. An act of terrorism as defined in s. 775.30.
- 392 2. A violation involving a weapon of mass destruction or
393 hoax weapon of mass destruction as provided in s. 790.166.
- 394 3. Planting of a hoax bomb as provided in s. 790.165.
- 395 4. A violation of s. 876.02 or 876.36.
- 396 5. A violation of s. 860.065.
- 397 6. Trafficking as provided in s. 893.135.
- 398 7. Racketeering activity as provided in s. 895.03.
- 399 8. Dealing in stolen property as provided in s. 812.019.
- 400 9. Money laundering as provided in s. 896.101.
- 401 10. Criminal use of personal identification as provided in
402 s. 817.568.
- 403 11. Bribery as provided in s. 838.015.
- 404 12. A violation of s. 316.302, relating to the transport of



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- 405 hazardous materials.
- 406 13. A forcible felony as defined in s. 776.08.
- 407 14. A violation of s. 790.07.
- 408 15. Any crime which includes the use or possession of a
409 weapon or firearm.
- 410 16. A felony violation for theft as provided in s. 812.014.
- 411 17. Robbery as provided in s. 812.13.
- 412 18. Burglary as provided in s. 810.02.
- 413 19. Any violation involving the sale, manufacture,
414 delivery, or possession with intent to sell, manufacture, or
415 deliver a controlled substance.
- 416 20. Any offense under the laws of another jurisdiction that
417 is similar to an offense in this list.
- 418 21. Conspiracy or attempt to commit any of the listed
419 offenses.
- 420 (b) Each individual who is subject to a criminal history
421 check shall file a complete set of fingerprints taken in a
422 manner acceptable to the Department of Law Enforcement for state
423 processing. Except for persons who are eligible for expedited
424 access under subsection (6), the fingerprints shall be forwarded
425 by the department to the Federal Bureau of Investigation for
426 federal processing. The results of the criminal history check
427 must be reported to the requesting seaport and may be shared
428 among seaports.
- 429 (c) All fingerprints submitted to the Department of Law
430 Enforcement shall be retained by the department and entered into
431 the statewide automated fingerprint identification system
432 established in s. 943.05(2) (b) and available for use in
433 accordance with s. 943.05(2) (g) and (h). An arrest record that



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434 is identified with the retained fingerprints of a person subject
435 to the screening shall be reported to the seaport where the
436 person has been granted access to a restricted access area. If
437 the fingerprints of a person who has been granted access to any
438 restricted area were not retained, or are otherwise not suitable
439 for use by the department, the person must be refingerprinted in
440 a manner that allows the department to perform its functions as
441 provided herein.

442 (d) All fees identified in subsection (5) must be paid
443 before the person may be granted access to a restricted access
444 area. Failure to comply with the criminal history checks or to
445 pay the annual fees are grounds for immediate denial of access.

446 (e) Except for persons who are eligible for expedited
447 access under subsection (6), the federal criminal history check
448 must be performed through the Department of Law Enforcement at
449 least once every 5 years, or at more frequent intervals as
450 required by the seaport security plan.

451 (f) The Department of Law Enforcement shall establish a
452 waiver process for an individual who is found to be unqualified
453 under paragraph (a) and denied employment by a seaport or
454 unescorted access to restricted access areas.

455 1. Consideration for a waiver shall be based on the
456 circumstances of any disqualifying act or offense, restitution
457 made by the individual, and other factors from which it may be
458 determined that the individual does not pose a risk of engaging
459 in any act within the public seaports regulated under this
460 chapter which poses a risk to or threatens the security of the
461 seaport and the public's health, safety, or welfare.

462 2. The waiver process begins when an individual who has



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463 been denied initial employment within or unescorted access to
464 restricted areas of a public seaport submits an application for
465 a waiver and a notarized letter or affidavit from the
466 individual's employer or union representative which states the
467 mitigating reasons for initiating the waiver process.

468 3. Within 90 days after receipt of the application, the
469 administrative staff of the Parole Commission shall conduct a
470 factual review of the waiver application. Findings of fact shall
471 be transmitted to the department for review. The department
472 shall make a copy of those findings available to the applicant
473 before final disposition of the waiver request.

474 4. The department shall make a final disposition of the
475 waiver request based on the factual findings of the
476 investigation by the Parole Commission. The department shall
477 notify the waiver applicant of the final disposition of the
478 waiver.

479 5. The review process under this paragraph is exempt from
480 chapter 120.

481 6. By October 1 of each year, each seaport shall report to
482 the department each instance of denial of employment within, or
483 access to, restricted areas, and each instance waiving an appeal
484 of a denial occurring during the last 12 months. The report must
485 include the identity of the individual affected, the factors
486 supporting the denial or waiver, and any other material factors
487 used to make the determination.

488 (g) In addition to the waiver procedure established by the
489 Department of Law Enforcement under paragraph (f), each seaport
490 security plan may establish a procedure to appeal a denial of
491 employment or access based upon procedural inaccuracies or



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492 discrepancies regarding criminal history factors established
493 pursuant to this subsection.

494 (h) Each seaport may allow immediate waivers on a temporary
495 basis to meet special or emergency needs of the seaport or its
496 users. Policies, procedures, and criteria for implementation of
497 this provision must be included in the seaport security plan.
498 All waivers granted by the seaports pursuant to this paragraph
499 must be reported to the department within 30 days after
500 issuance.

501 (8) WAIVER FROM SECURITY REQUIREMENTS.—The Office of Drug
502 Control and the Department of Law Enforcement may modify or
503 wave any physical facility requirement or other requirement
504 contained in the minimum security standards upon a determination
505 that the purposes of the standards have been reasonably met or
506 exceeded by the seaport requesting the modification or waiver.
507 An alternate means of compliance must not diminish the safety or
508 security of the seaport and must be verified through an
509 extensive risk analysis conducted by the seaport director.

510 (a) Waiver requests shall be submitted in writing, along
511 with supporting documentation, to the Office of Drug Control and
512 the Department of Law Enforcement. The office and the department
513 have 90 days to jointly grant or reject the waiver, in whole or
514 in part.

515 (b) The seaport may submit any waivers that are not granted
516 or are jointly rejected to the Domestic Security Oversight
517 Council for review within 90 days. The council shall recommend
518 that the Office of Drug Control and the Department of Law
519 Enforcement grant the waiver or reject the waiver, in whole or
520 in part. The office and the department shall give great weight



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521 to the council's recommendations.

522 (c) A request seeking a waiver from the seaport law
523 enforcement personnel standards established under s. 311.122(3)
524 may not be granted for percentages below 10 percent.

525 (d) Any modifications or waivers granted under this
526 subsection shall be noted in the annual report submitted by the
527 Department of Law Enforcement pursuant to subsection (10).

528 (9) INSPECTIONS.—It is the intent of the Legislature that
529 the state's seaports adhere to security practices that are
530 consistent with the risks assigned to each seaport through the
531 ongoing risk assessment process established in paragraph (3) (a).

532 (a) The Department of Law Enforcement, or any entity
533 designated by the department, shall conduct at least one annual
534 unannounced inspection of each seaport to determine whether the
535 seaport is meeting the minimum security standards established
536 pursuant to subsection (1), and to identify seaport security
537 changes or improvements needed or otherwise recommended.

538 (b) The Department of Law Enforcement, or any entity
539 designated by the department, may conduct additional announced
540 or unannounced inspections or operations within or affecting any
541 seaport to test compliance with, or the effectiveness of,
542 security plans and operations at each seaport, to determine
543 compliance with physical facility requirements and standards, or
544 to assist the department in identifying changes or improvements
545 needed to bring a seaport into compliance with minimum security
546 standards.

547 (c) Within 30 days after completing the inspection report,
548 the department shall submit a copy of the report to the Domestic
549 Security Oversight Council.



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550 (d) A seaport may request that the Domestic Security
551 Oversight Council review the findings in the department's report
552 as they relate to the requirements of this section. The council
553 may review only those findings that are in dispute by the
554 seaport. In reviewing the disputed findings, the council may
555 concur in the findings of the department or the seaport, or may
556 recommend corrective action to the seaport. The department and
557 the seaport shall give great weight to the council's findings
558 and recommendations.

559 (e) The seaport director shall immediately implement any
560 security changes or improvements needed or recommended in the
561 report or, if the director requested a review by the Domestic
562 Security Oversight Council pursuant to paragraph (d),
563 immediately following the conclusion of that review.

564 (f) All seaports shall allow the Department of Law
565 Enforcement, or entity designated by the department, unimpeded
566 access to affected areas and facilities for the purpose of plan
567 or compliance inspections or other operations authorized by this
568 section.

569 (10) REPORTS.—

570 (a) The Department of Law Enforcement, in consultation with
571 the Office of Drug Control, shall annually complete a report
572 indicating the observations and findings of all reviews,
573 inspections, or other operations relating to the seaports
574 conducted during the year and any recommendations resulting from
575 such reviews, inspections, and operations. A copy of the report
576 shall be provided to the Governor, the President of the Senate,
577 the Speaker of the House of Representatives, the governing body
578 of each seaport or seaport authority, and each seaport director.



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579 The report must include each director's response indicating what
580 actions, if any, have been taken or are planned to be taken
581 pursuant to the observations, findings, and recommendations
582 reported by the department.

583 (b) After the Department of Law Enforcement completes the
584 annual inspection report in paragraph (a), the department shall
585 provide an assessment briefing to the board members of the
586 governing authority of each seaport and to the local regional
587 domestic security task force co-chairs. The briefing must
588 address the findings from the inspections, areas of concern, and
589 recommendations for improvements.

590 1. The department shall provide at least one assessment
591 briefing per year to the board during a meeting of the board.
592 The board must make transcripts and audio recordings of all
593 proceedings during such briefings.

594 2. Each board member of a governing authority having
595 responsibility for seaport oversight or operations must attend
596 the assessment briefings. The seaport authority shall remove
597 each board member who fails to attend two consecutive assessment
598 briefings. All attendance records shall be published and
599 announced at the next regular meeting of the board.

600 (11) FUNDING.—

601 (a) In making security project or other funding decisions
602 applicable to each seaport listed in s. 311.09, the Legislature
603 may consider the Department of Law Enforcement's annual report
604 under subsection (10) as authoritative, especially regarding
605 each seaport's degree of substantial compliance with the minimum
606 security standards established in subsection (1).

607 (b) The Legislature shall regularly review the ongoing



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608 costs of operational security on seaports, the impacts of this
609 section on those costs, mitigating factors that may reduce costs
610 without reducing security, and the methods by which seaports may
611 implement operational security using a combination of sworn law
612 enforcement officers and private security services.

613 (c) Subject to the provisions of this chapter and
614 appropriations made for seaport security, state funds may not be
615 expended for security costs without certification of need for
616 such expenditures by the Office of Ports Administrator within
617 the Department of Law Enforcement.

618 (d) If funds are appropriated for seaport security, the
619 Office of Drug Control, the Department of Law Enforcement, and
620 the Florida Seaport Transportation and Economic Development
621 Council shall mutually determine the allocation of such funds
622 for security project needs identified in the approved seaport
623 security plans. Any seaport that receives state funds for
624 security projects must enter into a joint participation
625 agreement with the appropriate state entity and use the seaport
626 security plan as the basis for the agreement.

627 1. If funds are made available over more than 1 fiscal
628 year, the agreement must reflect the entire scope of the project
629 approved in the security plan and, as practicable, allow for
630 reimbursement for authorized projects over more than 1 year.

631 2. The agreement may include specific timeframes for
632 completion of a security project and the applicable funding
633 reimbursement dates. The agreement may also require a
634 contractual penalty of up to \$1,000 per day to be imposed for
635 failure to meet project completion dates if state funding is
636 available. Any such penalty shall be deposited into the State



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637 Transportation Trust Fund and used for seaport security
638 operations and capital improvements.

639 Section 3. Sections 311.111 and 311.125, Florida Statutes,
640 are repealed.

641 Section 4. Subsection (3) of section 311.121, Florida
642 Statutes, is amended to read:

643 311.121 Qualifications, training, and certification of
644 licensed security officers at Florida seaports.—

645 (3) ~~(a)~~ The Seaport Security Officer Qualification,
646 Training, and Standards Coordinating Council is created under
647 the Department of Law Enforcement.

648 ~~(a)~~ ~~(b)~~ 1. The executive director of the Department of Law
649 Enforcement shall appoint 11 members to the council to which
650 ~~shall~~ include:

651 ~~1.a.~~ The seaport administrator of the Department of Law
652 Enforcement.

653 ~~2.b.~~ The Commissioner of Education or designee ~~chancellor~~
654 ~~of the Community College System.~~

655 ~~3.e.~~ The director of the Division of Licensing of the
656 Department of Agriculture and Consumer Services.

657 ~~4.d.~~ The administrator of the Florida Seaport
658 Transportation and Economic Development Council.

659 ~~5.e.~~ Two seaport security directors from seaports
660 designated under s. 311.09.

661 ~~6.f.~~ One director of a state law enforcement academy.

662 ~~7.g.~~ One representative of a local law enforcement agency.

663 ~~8.h.~~ Two representatives of contract security services.

664 ~~9.i.~~ One representative of the Division of Driver Licenses
665 of the Department of Highway Safety and Motor Vehicles.



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666 (b)2. In addition to the members designated in paragraph
667 (a) subparagraph 1., the executive director may invite a
668 representative of the United States Coast Guard to attend and
669 participate in council meetings as an ex officio, nonvoting
670 member of the council.

671 (c) Council members designated under subparagraphs (a)1.-4.
672 ~~in sub-subparagraphs (b)1.a.-d.~~ shall serve for the duration of
673 their employment or appointment. Council members designated
674 under subparagraphs (b)5.-9. ~~sub-subparagraphs (b)1.e.-i.~~ shall
675 be appointed for ~~serve~~ 4-year terms, except that the initial
676 appointment for the representative of a local law enforcement
677 agency, one representative of a contract security agency, and
678 one seaport security director from a seaport designated in s.
679 311.09 shall be appointed for 2-year terms ~~serve for terms of 2~~
680 ~~years.~~

681 (d) The chancellor of the Community College System shall
682 serve as chair of the council.

683 (e) The council shall meet upon the call of the chair, and
684 at least once a year to update or modify curriculum
685 recommendations.

686 (f) Council members shall serve without pay; however, per
687 diem and travel allowances may be claimed for attendance of
688 officially called meetings as provided by s. 112.061.

689 (g) ~~By December 1, 2006,~~ The council shall identify the
690 qualifications, training, and standards for seaport security
691 officer certification and recommend a curriculum for the seaport
692 security officer training program that includes at least ~~shall~~
693 ~~include no less than~~ 218 hours of initial certification training
694 and that conforms to or exceeds model courses approved under ~~by~~



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695 ~~the Federal Maritime Act under~~ s. 109 of the Federal Maritime
696 Transportation Security Act of 2002 for facility personnel with
697 specific security duties.

698 1.~~(h)~~ The council may recommend training equivalencies that
699 may be substituted for portions of the required training.

700 2.~~(i)~~ The council shall recommend a continuing education
701 curriculum of at least ~~no less than~~ 8 hours of additional
702 training for each annual licensing period.

703 Section 5. Section 311.123, Florida Statutes, is amended to
704 read:

705 311.123 Maritime domain security awareness training
706 program.—

707 (1) The Florida Seaport Transportation and Economic
708 Development Council, in conjunction with the Department of Law
709 Enforcement and the Office of Drug Control within the Executive
710 Office of the Governor, shall create a maritime domain security
711 awareness training program to instruct all personnel employed
712 within a seaport's boundaries about the security procedures
713 required of them for implementation of the seaport security plan
714 required under s. 311.12(3).

715 (2) The training program curriculum must include security
716 training required pursuant to 33 C.F.R. part 105 and must be
717 designed to enable the seaports in this state to meet the
718 training, drill, and exercise requirements of 33 C.F.R. part 105
719 and individual seaport security plans and to otherwise comply
720 with the requirements of s. 311.12 ~~relating to security~~
721 ~~awareness.~~

722 Section 6. Subsection (1) of section 311.124, Florida
723 Statutes, is amended to read:



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724 311.124 Trespassing; detention by a certified seaport
725 security officer.—

726 (1) Any Class D or Class G seaport security officer
727 certified under the Maritime Transportation Security Act
728 guidelines and s. 311.121 or any employee of the seaport
729 security force certified under the Maritime Transportation
730 Security Act guidelines and s. 311.121 who has probable cause to
731 believe that a person is trespassing pursuant to ~~the provisions~~
732 ~~of~~ s. 810.08 or s. 810.09 or this chapter in a designated
733 restricted access area pursuant to s. 311.12(4) ~~s. 311.111~~ is
734 authorized to detain such person in a reasonable manner for a
735 reasonable period of time pending the arrival of a law
736 enforcement officer, and such action does ~~shall~~ not render the
737 security officer criminally or civilly liable for false arrest,
738 false imprisonment, or unlawful detention.

739 Section 7. Section 311.13, Florida Statutes, is amended to
740 read:

741 311.13 Certain information exempt from disclosure.—Seaport
742 security plans ~~of a seaport authority~~ created pursuant to s.
743 311.12 ~~by act of the Legislature or of a seaport department of a~~
744 ~~county or municipality that operates an international seaport~~
745 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
746 Constitution. In addition, photographs, maps, blueprints,
747 drawings, and similar materials that depict critical seaport
748 operating facilities are exempt from s. 119.07(1) and s. 24(a),
749 Art. I of the State Constitution, to the extent that a seaport
750 ~~authority created by act of the Legislature or a seaport~~
751 ~~department of a county or municipality that operates a seaport~~
752 reasonably determines that such items contain information that



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753 is not generally known and that could jeopardize the security of
754 the seaport; however, information relating to real estate
755 leases, layout plans, blueprints, or information relevant
756 thereto, is not ~~to be~~ included in this exemption. ~~The exemptions~~
757 ~~in this section are applicable only to records held by a seaport~~
758 ~~authority created by act of the Legislature or to records of a~~
759 ~~county or municipal seaport department that operates a seaport.~~

760 Section 8. Paragraph (a) of subsection (4) of section
761 943.0585, Florida Statutes, is amended to read:

762 943.0585 Court-ordered expunction of criminal history
763 records.—The courts of this state have jurisdiction over their
764 own procedures, including the maintenance, expunction, and
765 correction of judicial records containing criminal history
766 information to the extent such procedures are not inconsistent
767 with the conditions, responsibilities, and duties established by
768 this section. Any court of competent jurisdiction may order a
769 criminal justice agency to expunge the criminal history record
770 of a minor or an adult who complies with the requirements of
771 this section. The court shall not order a criminal justice
772 agency to expunge a criminal history record until the person
773 seeking to expunge a criminal history record has applied for and
774 received a certificate of eligibility for expunction pursuant to
775 subsection (2). A criminal history record that relates to a
776 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
777 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
778 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
779 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
780 any violation specified as a predicate offense for registration
781 as a sexual predator pursuant to s. 775.21, without regard to



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782 whether that offense alone is sufficient to require such
783 registration, or for registration as a sexual offender pursuant
784 to s. 943.0435, may not be expunged, without regard to whether
785 adjudication was withheld, if the defendant was found guilty of
786 or pled guilty or nolo contendere to the offense, or if the
787 defendant, as a minor, was found to have committed, or pled
788 guilty or nolo contendere to committing, the offense as a
789 delinquent act. The court may only order expunction of a
790 criminal history record pertaining to one arrest or one incident
791 of alleged criminal activity, except as provided in this
792 section. The court may, at its sole discretion, order the
793 expunction of a criminal history record pertaining to more than
794 one arrest if the additional arrests directly relate to the
795 original arrest. If the court intends to order the expunction of
796 records pertaining to such additional arrests, such intent must
797 be specified in the order. A criminal justice agency may not
798 expunge any record pertaining to such additional arrests if the
799 order to expunge does not articulate the intention of the court
800 to expunge a record pertaining to more than one arrest. This
801 section does not prevent the court from ordering the expunction
802 of only a portion of a criminal history record pertaining to one
803 arrest or one incident of alleged criminal activity.

804 Notwithstanding any law to the contrary, a criminal justice
805 agency may comply with laws, court orders, and official requests
806 of other jurisdictions relating to expunction, correction, or
807 confidential handling of criminal history records or information
808 derived therefrom. This section does not confer any right to the
809 expunction of any criminal history record, and any request for
810 expunction of a criminal history record may be denied at the



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811 sole discretion of the court.

812 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
813 criminal history record of a minor or an adult which is ordered
814 expunged by a court of competent jurisdiction pursuant to this
815 section must be physically destroyed or obliterated by any
816 criminal justice agency having custody of such record; except
817 that any criminal history record in the custody of the
818 department must be retained in all cases. A criminal history
819 record ordered expunged that is retained by the department is
820 confidential and exempt from the provisions of s. 119.07(1) and
821 s. 24(a), Art. I of the State Constitution and not available to
822 any person or entity except upon order of a court of competent
823 jurisdiction. A criminal justice agency may retain a notation
824 indicating compliance with an order to expunge.

825 (a) The person who is the subject of a criminal history
826 record that is expunged under this section or under other
827 provisions of law, including former s. 893.14, former s. 901.33,
828 and former s. 943.058, may lawfully deny or fail to acknowledge
829 the arrests covered by the expunged record, except when the
830 subject of the record:

- 831 1. Is a candidate for employment with a criminal justice
832 agency;
- 833 2. Is a defendant in a criminal prosecution;
- 834 3. Concurrently or subsequently petitions for relief under
835 this section or s. 943.059;
- 836 4. Is a candidate for admission to The Florida Bar;
- 837 5. Is seeking to be employed or licensed by or to contract
838 with the Department of Children and Family Services, the Agency
839 for Health Care Administration, the Agency for Persons with



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840 Disabilities, or the Department of Juvenile Justice or to be
841 employed or used by such contractor or licensee in a sensitive
842 position having direct contact with children, the
843 developmentally disabled, the aged, or the elderly as provided
844 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
845 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4),
846 chapter 916, s. 985.644, chapter 400, or chapter 429;

847 6. Is seeking to be employed or licensed by the Department
848 of Education, any district school board, any university
849 laboratory school, any charter school, any private or parochial
850 school, or any local governmental entity that licenses child
851 care facilities; or

852 7. Is seeking authorization from a ~~Florida~~ seaport listed
853 ~~identified~~ in s. 311.09 for employment within or access to one
854 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125.~~

855 Section 9. Paragraph (a) of subsection (4) of section
856 943.059, Florida Statutes, is amended to read:

857 943.059 Court-ordered sealing of criminal history records.-
858 The courts of this state shall continue to have jurisdiction
859 over their own procedures, including the maintenance, sealing,
860 and correction of judicial records containing criminal history
861 information to the extent such procedures are not inconsistent
862 with the conditions, responsibilities, and duties established by
863 this section. Any court of competent jurisdiction may order a
864 criminal justice agency to seal the criminal history record of a
865 minor or an adult who complies with the requirements of this
866 section. The court shall not order a criminal justice agency to
867 seal a criminal history record until the person seeking to seal
868 a criminal history record has applied for and received a



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869 certificate of eligibility for sealing pursuant to subsection
870 (2). A criminal history record that relates to a violation of s.
871 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
872 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
873 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
874 916.1075, a violation enumerated in s. 907.041, or any violation
875 specified as a predicate offense for registration as a sexual
876 predator pursuant to s. 775.21, without regard to whether that
877 offense alone is sufficient to require such registration, or for
878 registration as a sexual offender pursuant to s. 943.0435, may
879 not be sealed, without regard to whether adjudication was
880 withheld, if the defendant was found guilty of or pled guilty or
881 nolo contendere to the offense, or if the defendant, as a minor,
882 was found to have committed or pled guilty or nolo contendere to
883 committing the offense as a delinquent act. The court may only
884 order sealing of a criminal history record pertaining to one
885 arrest or one incident of alleged criminal activity, except as
886 provided in this section. The court may, at its sole discretion,
887 order the sealing of a criminal history record pertaining to
888 more than one arrest if the additional arrests directly relate
889 to the original arrest. If the court intends to order the
890 sealing of records pertaining to such additional arrests, such
891 intent must be specified in the order. A criminal justice agency
892 may not seal any record pertaining to such additional arrests if
893 the order to seal does not articulate the intention of the court
894 to seal records pertaining to more than one arrest. This section
895 does not prevent the court from ordering the sealing of only a
896 portion of a criminal history record pertaining to one arrest or
897 one incident of alleged criminal activity. Notwithstanding any



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898 law to the contrary, a criminal justice agency may comply with
899 laws, court orders, and official requests of other jurisdictions
900 relating to sealing, correction, or confidential handling of
901 criminal history records or information derived therefrom. This
902 section does not confer any right to the sealing of any criminal
903 history record, and any request for sealing a criminal history
904 record may be denied at the sole discretion of the court.

905 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
906 history record of a minor or an adult which is ordered sealed by
907 a court of competent jurisdiction pursuant to this section is
908 confidential and exempt from the provisions of s. 119.07(1) and
909 s. 24(a), Art. I of the State Constitution and is available only
910 to the person who is the subject of the record, to the subject's
911 attorney, to criminal justice agencies for their respective
912 criminal justice purposes, which include conducting a criminal
913 history background check for approval of firearms purchases or
914 transfers as authorized by state or federal law, to judges in
915 the state courts system for the purpose of assisting them in
916 their case-related decisionmaking responsibilities, as set forth
917 in s. 943.053(5), or to those entities set forth in
918 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
919 licensing, access authorization, and employment purposes.

920 (a) The subject of a criminal history record sealed under
921 this section or under other provisions of law, including former
922 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
923 deny or fail to acknowledge the arrests covered by the sealed
924 record, except when the subject of the record:

925 1. Is a candidate for employment with a criminal justice
926 agency;



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- 927 2. Is a defendant in a criminal prosecution;
- 928 3. Concurrently or subsequently petitions for relief under
929 this section or s. 943.0585;
- 930 4. Is a candidate for admission to The Florida Bar;
- 931 5. Is seeking to be employed or licensed by or to contract
932 with the Department of Children and Family Services, the Agency
933 for Health Care Administration, the Agency for Persons with
934 Disabilities, or the Department of Juvenile Justice or to be
935 employed or used by such contractor or licensee in a sensitive
936 position having direct contact with children, the
937 developmentally disabled, the aged, or the elderly as provided
938 in s. 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
939 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
940 415.103, chapter 916, s. 985.644, chapter 400, or chapter 429;
- 941 6. Is seeking to be employed or licensed by the Department
942 of Education, any district school board, any university
943 laboratory school, any charter school, any private or parochial
944 school, or any local governmental entity that licenses child
945 care facilities;
- 946 7. Is attempting to purchase a firearm from a licensed
947 importer, licensed manufacturer, or licensed dealer and is
948 subject to a criminal history background check under state or
949 federal law; or
- 950 8. Is seeking authorization from a Florida seaport
951 identified in s. 311.09 for employment within or access to one
952 or more of such seaports pursuant to s. 311.12 ~~or s. 311.125~~.
- 953 Section 10. The Office of Drug Control shall commission an
954 update of the Florida Seaport Security Assessment 2000
955 referenced in s. 311.12(1)(a), Florida Statutes. The office



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956 shall consult with the Seaport Security Standards Advisory
957 Council in forming the parameters of the update. The updated
958 assessment shall be presented to the Legislature for review by
959 January 1, 2010. Pursuant to s. 311.13, Florida Statutes, any
960 records included in the assessment which are exempt from s.
961 119.07(1), Florida Statutes, are exempt from disclosure.

962 Section 11. Paragraph (b) of subsection (9) of s. 311.12,
963 Florida Statutes, as amended by this act, shall take effect only
964 if SB 2162, or similar legislation is enacted in the same
965 legislative session, or an extension thereof, and becomes law.

966 Section 12. Except as otherwise expressly provided in this
967 act, this act shall take effect July 1, 2009.