

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 1110

INTRODUCER: Senator Evers

SUBJECT: Railroad Police Officers

DATE: March 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Pre-meeting
2.			CJ	
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 1110 provides for reclassification of the misdemeanor or felony degree of specified assault and battery offenses when those offenses are knowingly committed against a railroad special officer and provides, for purposes of criminal justice standards and training only, the definition of “law enforcement officer” includes special officers employed by certain railroads and the definition of “employing agency” includes Class I or Class II railroads that employ special officers pursuant to s.354.01, F.S.

This bill amends the following sections of the Florida Statutes: 354.01, 784.07, and 943.10.

II. Present Situation:

Appointment of Special Officers

The Governor, upon the application of any railroad or other common carrier doing business in this state, is directed to appoint one or more persons who have met the law enforcement qualifications and training requirements of s. 943.13(1)-(10), F.S., as special officers for the protection and safety of such carriers. Each special officer is granted the power, in every county in which the common carrier does business, operates, or owns property, to make arrests for violations of law on the property of such carrier, and to make arrests, whether on or off the carrier’s property, for violations of any law on the carrier’s property, under the same conditions under which deputy sheriffs may by law make arrest. Special officers are also authorized to carry weapons.¹

¹ Section 354.01, F.S.

Enhanced Penalties for Assault and Battery

Section 784.07, F.S., enhances the penalties for assault or battery on the following types of employees or persons:

- A law enforcement officer;
- A firefighter;
- An emergency medical care provider;
- A traffic accident investigation officer;
- A nonsworn law enforcement agency employee certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI;
- A law enforcement explorer;
- A traffic infraction enforcement officer;
- A parking enforcement specialist;
- a person licensed as a security officer and wearing a uniform that bears at least one patch or emblem visible at all times that clearly identifies the employing agency and clearly identifies the person as a licensed security officer; and
- A security officer employed by the board of trustees of a community college.

Section 784.07, F.S., applies whenever any person is charged with knowingly committing an assault or battery upon one of these persons while that person is engaged in the lawful performance of his or her duties. The reclassification of degree of the offense depends on the assault or battery offense charged:

- In the case of assault, from a second degree misdemeanor to a first degree misdemeanor.
- In the case of battery, from a first degree misdemeanor to a third degree felony.
- In the case of aggravated assault, from a third degree felony to a second degree felony, and any person convicted of aggravated assault upon a law enforcement officer is subject to a mandatory three-year minimum term of imprisonment.
- In the case of aggravated battery, from a second degree felony to a first degree felony, and any person convicted of aggravated battery of a law enforcement officer is subject to a mandatory five-year minimum term of imprisonment.

Further, any person convicted of battery as a third degree felony as provided above who, during the commission of the offense, possessed:

- A firearm or destructive device, as defined, is subject to a mandatory minimum term of imprisonment of three years.
- A semiautomatic firearm and its high-capacity detachable box magazine, as defined, or a machine gun, as defined, is subject to a mandatory minimum term of imprisonment of eight years.

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally

based on the degree of the misdemeanor or felony. The maximum sentence for a second degree misdemeanor is 60 days in a county jail; for a first degree misdemeanor, one year in a county jail; for a third degree felony, 5 years state imprisonment; for a second degree felony, 15-year state imprisonment; and for a first degree felony, generally 30-years state imprisonment.² Fines may also be imposed, and these fines escalate based on the degree of the offense.³ The offense severity ranking level of applicable reclassified felony offenses is as follows: reclassified battery: Level 4; reclassified aggravated assault: Level 6; and reclassified aggravated battery: Level 7.⁴

Additionally, s. 784.07, F.S., provides that when a person is found guilty under the statute, adjudication of guilt or imposition of sentence cannot be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time or any form of discretionary early release.

Criminal Justice Standards and Training Commission

Section 943.085, F.S., expresses legislative intent to strengthen and upgrade law enforcement agencies and correctional institutions in this state and to establish a minimum foundation program for law enforcement officers, correctional officers, and correctional probation officers; and further that the Criminal Justice Standards and Training Commission (Commission) actively provide statewide leadership in establishing, implementing, and evaluating criminal justice standards and training for all law enforcement officers. To that end, the Commission is charged with the administration of ss. 943.085-943.255, F.S. and, among other duties, with:

- Certifying and revoking the certification of officers, instructors, and criminal justice training schools;
- Establishing uniform minimum employment standards for the various criminal justice disciplines; and
- Establishing uniform minimum training standards for the training of officers in the various criminal justice disciplines.⁵

Section 943.10(1), F.S., defines “law enforcement officer” as used in ss. 943.085-943.255, F.S. Special officers appointed by the Governor pursuant to s. 354.01, F.S., are not mentioned in the definition. Similarly, s. 943.10(4), F.S., defines “employing agency” as used in ss. 943.085-943.225, F.S., but that subsection does not mention Class I or Class I railroads that employ special officers pursuant to s. 354.01, F.S.

Special officers are therefore not currently included in the provisions for enhanced penalties and are not subject to Commission oversight or to continuing education and training requirements, and the specified railroads are not recognized as a criminal justice employing agency as outlined in ch. 943, F.S.

² Section 775.082, F.S.

³ Section 775.083, F.S.

⁴ Section 921.0022, F.S. Sentence points accrue based upon the ranking of a non-capital felony offense with higher-level offenses accruing more sentence points than lower-ranking offenses. These points, along with points accrued for additional and prior offenses and other factors, are entered into a statutorily-derived mathematical calculation to determine the lowest possible sentence.

⁵ Section 943.12, F.S.

III. Effect of Proposed Changes:

Section 1: Amends s. 354.01, F.S., to provide that a special officer shall not be considered a “law enforcement officer” except for purposes of ss. 943.085-943.255, F.S., and that a Class I or Class II railroad shall not be considered an “employing agency” except for the same purposes. Thus, duly appointed special officers are required to comply with the provisions of ss. 943.085-943.255, F.S., relating to minimum qualifications; basic recruit, advanced, and career development training; examinations and certification for employment, and continuing education requirements, etc. Similarly, the Class I or Class II railroad is not the employing agency of the special officer, except for matters found in ss. 943-085-943.255, F.S.

Section 2: Amends s. 784.07, F.S., to define “railroad special officer” to mean a person employed by a Class I or Class II railroad and appointed by the Governor pursuant to s. 354.01, F.S., and to include railroad special officers in the provisions for enhanced penalties whenever any person is charged with knowingly committing an assault or battery on a railroad special officer.

Section 3: Amends s. 943.10(1), F.S., to provide that for purposes of ss. 943.085-943.255 *only*, the definition of “law enforcement officer” includes special officers employed by a Class I or Class II railroad and appointed by the Governor pursuant to s. 354.01, F.S., and amends s. 943.10(4), F.S., to provide that for purposes of ss. 943.085-943.255 *only*, the definition of “employing agency” also includes a Class I or Class II railroad that employs special officers pursuant to s. 354.01, F.S.

The bill includes the specified railroad special officers in the provisions for enhanced penalties for specified assault and battery, subjects the officers to Commission oversight and continuing education and training requirements, and recognizes the specified railroads as employing agencies only for the purposes outlined in the specified sections of ch. 943, F.S.

Other Potential Implications:

The consequences of the language in section 1 of the bill are unclear. As noted by FDLE, “The granting [of “employing agency”] status should also be reviewed to determine if there are any unintended consequences such as unintentionally granting a railroad immunities that public agency law enforcement officers and employing entities enjoy under law.”⁶

As another example, if the Class I or Class II railroad is not the employing agency for any purposes except ss. 943.085-943.255, who is the special officer’s employer for a variety of circumstances; i.e., for a workers’ compensation claim? Section 1 of the bill appears to be unnecessary given the language being included in s. 943.10(1) and (4), F.S., in section 3 of the bill, and may result in unintended consequences.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁶ FDLE analysis of SB 1110 on file in the Senate Transportation Committee.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

FDLE notes that these officers would become eligible to receive funds from the Criminal Justice Standards and Training Trust Fund for advanced and specialized training, which equates to a recurring cost of approximately \$1,800 per year (calculated on the current disbursement amount of \$67 per officer for 27 officers) beginning in Fiscal Year 2013-2014 and continuing annually. FDLE further notes this cost may increase or decrease depending on the availability of funds for disbursement to the training centers.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁷ Id.