

STORAGE NAME: h3571.leps
DATE: March 4, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Law Enforcement and Public Safety
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3571 (PCB LEPS 98-01A)

RELATING TO: The Department of Law Enforcement

SPONSOR(S): Committee on Law Enforcement and Public Safety and Representative Futch

COMPANION BILL(S): CS/SB 486, S 1378

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

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 5 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

House Bill 3571 reorganizes the Department of Law Enforcement from five divisions, which include the Divisions of Criminal Investigations, Local Law Enforcement Assistance, Criminal Justice Information Systems, Criminal Justice Standards and Training, and Staff Services, into three programs comprised of the Criminal Justice Investigations and Forensic Science Program, Criminal Justice Information Program, and Criminal Justice Professionalism Program. These programs are identical to the budget entities established pursuant to the performance-based program budgeting (PB²) system. The executive director of FDLE is authorized to establish a command, operational, and administrative structure to support the manpower and expenditures needs required for the programs and the delivered services.

The bill provides that FDLE develop, maintain, and be the custodial manager of an information system, including statewide telecommunications, that would support the administration of the criminal and juvenile justice system. The Florida Department of Law Enforcement could contract with other government agencies and private entities to facilitate the department's responsibility for managing criminal and juvenile information.

The bill provides that the department adopt and recommend policies for state and local law enforcement agencies cooperation relating to investigation and forensic science services and, by rule, adopt policies, procedures, and standards for operating state-operated crime laboratories.

The bill further removes the department as being a "pass through" agency for state funding for the Monroe County Sheriff's Crime Laboratory. The bill also provides that the \$50 in fines being deposited in the Criminal Justice Standards and Training Trust Fund for operational expenses in conducting the statewide criminal analysis laboratory system established in §943.32, F.S., be continued but the reference to the Division of Local Law Enforcement Assistance is deleted. The department would still be required to use that money as specified.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In 1994, the Legislature passed a law that required state agencies to submit performance-based program budget requests according to a schedule that is set out in §216.0172, F.S. Within this schedule, the Department of Law Enforcement was required to submit its first performance-based program budget (PB²) request by September 1, 1995 for the 1996-97 fiscal year pursuant to §216.0172 (2) (d), F.S. The department is now budgeted in accordance with the legislatively approved program measures.

The department followed the requirements of §216.0166, F.S., which sets out the statutory process for performance measures to be approved and for agency submission of PB² requests and developed a list of agency programs that was subsequently approved, in consultation with legislative appropriations and appropriate substantive committees, by the Executive Office of the Governor. Once the list of programs was approved, performance measures were required to be developed for each program. Florida Department of Law Enforcement then identified the outputs produced by each approved program, the outcomes resulting from each approved program, and the baseline data associated with each performance measure. For subsequent PB² requests, the performance measures were revised or new measures were developed in consultation with legislative appropriations and appropriate substantive committees and the Office of Program Policy Analysis and Government Accountability (OPPAGA). As part of the Legislative Budget Request, the Governor's Office approved the final list of proposed performance measures. Of course, the Legislature had, and continues to have, final approval of FDLE's programs, performance measures, and standards through the General Appropriations Act and its implementing bill.

Pursuant to §20.201 (2), F.S., the department is currently organized as five divisions: Criminal Investigation, Local Law Enforcement Assistance, Criminal Justice Information Systems, Criminal Justice Standards and Training, and Staff Services. As part of PB², the department was reconfigured into three programs or budget entities: Criminal Justice Investigations and Forensic Science, Criminal Justice Information, and Criminal Justice Professionalism. Despite this change in performance-based program budgeting, the department is still statutorily organized in a configuration that differs from how it is budgeted under PB².

According to OPPAGA, FDLE's PB² measures were "improved" in its second year of PB², FY 1997-98. Expectations are that the measures will continue to improve through future revisions. OPPAGA reports that the PB² process has already improved the organization of the department and delivery of services by FDLE which has a current budget of approximately \$136 million and over 1,530 positions in its agency.

In 1995, the Legislature directed the Criminal Justice and Juvenile Justice Information Systems Council, an advisory body of the Criminal Justice Information System Division, to develop standards and policies to promote sharing criminal justice information throughout the state and provide oversight on the development of the juvenile justice data system. The Council is currently working on linking law enforcement and other criminal justice agencies' database systems through the Criminal Justice Network.

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Currently, each sheriff or unit of government is required to submit information to the Criminal Justice Information Program (or Division) relating to the receipt or discharge of any person who is sentenced to a jail facility. According to FDLE, most information that was required to be reported was not received and the FDLE did not find the information useful. Information on the disposition of all adult offenders is already being received from the clerks of the courts. The department has found this information to be adequate for its database and feels that it does not need the information on the receipt or discharge of any person sentenced to a jail.

In 1995, Representative Horan sponsored HB 1193, which sought to amend substantive law under §943.35, F.S., and to transfer the Monroe County Crime Laboratory to the Department of Law Enforcement. However, the House bill, as well as the Senate companion bill, SB 2532, died in committee. Until that time, the Monroe County Sheriff's Crime Laboratory received state funding for its operations with the Department of Law Enforcement acting as the "pass-through" agency for the state funding. Despite the substantive bills not passing the Legislature, the transfer of the laboratory to FDLE operation was actually made in the appropriations process. The changes in the substantive law were never made for consistent with actual funding practice.

B. EFFECT OF PROPOSED CHANGES:

House Bill 3571 would change the organizational structure of the Department of Law Enforcement to three program entities rather than five separate divisions. This would conform the agency with the following budget entities that exist for the department for performance-based program budgeting (PB²): Criminal Justice Investigations and Forensic Science, Criminal Justice Professionalism, and Criminal Justice Information. The department would no longer be required to designate persons currently referred to as "division directors," but would have the flexibility to name one or more persons to the same or similar position in each program as determined by the executive director. Such personnel would supervise, direct, coordinate, and administer activities of the three programs.

The bill would also provide additional authority to the executive director of the department to establish a "command, operational, and administrative services structure" that would assist and support the department in operating programs and delivering services. This authority would provide wide discretion to the executive director to organize the administrative and support services structure without explicit legislative directive. Such services would involve a chain-of-command for management and accountability for the activities and mission of the department. Positions that would be included in this structure would be the general counsel and assistant general counsels, and the inspector general, among others.

According to FDLE, the administrative structure of the department, which essentially includes all of the personnel who used to be included in the Division of Staff Services (approximately 100 persons), is not specified in the PB² system. Since the new PB² structure does not include an administrative program function, there are no performance measures for these activities. Because of this, FDLE is proposing that an administrative program, including performance measures, be included in the PB² system. This proposal would have to be approved in the legislative appropriations process.

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The Florida Department of Law Enforcement would be required to develop and maintain an information system that supports the administration of the state's criminal and juvenile justice system in consultation with the Criminal and Juvenile Justice Information Systems Council. The department would be required to serve as the custodial manager of the statewide telecommunications and data network developed and maintained as part of the department's information system. The department would be encouraged to develop innovative and progressive methods of serving the information management needs of the criminal justice agencies and the public. The department would be authorized to contract with other agencies or private entities to help facilitate the department's responsibilities for receiving, maintaining, managing, processing, allowing access to, and disseminating criminal justice information and criminal history records to criminal justice agencies and the public, as appropriate.

The department would have the authority to adopt rules to carry out the services of the Criminal Justice Investigations and Forensic Science Program relating to cooperative policies for coordinating law enforcement work of all state, county, and municipal law enforcement agencies; assisting local law enforcement agencies with research, planning, training, and technical assistance to aid officers in preventing, controlling, and solving criminal activity; providing forensic services to all levels of law enforcement agencies; and adopting procedures and standards for operating certain crime laboratories.

The bill would delete the requirement that each sheriff or unit of government submit information to the Criminal Justice Information Program (or Division) relating to the receipt or discharge of any person who is sentenced to a jail facility.

The bill provides that personnel of the Criminal Justice Professionalism Program employed as staff to assist the Criminal Justice Standards and Training Commission, their necessary and required expenses, and the expenses necessary and required to administer the Commission's program, shall be paid by the Criminal Justice Standards and Training Trust Fund. Other personnel, and related expenses of personnel employed by the program, will be paid with other funds.

Reference to the department being a "pass through" agency for state funding for the Monroe County Sheriff's Crime Laboratory would be deleted. Reference to \$50 in fines being deposited in the Criminal Justice Standards and Training Trust Fund of the department to be used for operational expenses of the Division of Local Law Enforcement Assistance is deleted. The department would still be required to use that money for operational expenses in conducting the statewide criminal analysis laboratory system established in §943.32, F.S.

The bill also repeals ss. 943.26 and 943.381, F.S., creating, respectively, the Division of Local Law Enforcement Assistance and the Division of Staff Services which conforms the department's reorganization to the PB² system.

The committee substitute would take effect on July 1, 1998.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The department is authorize to adopt rules relating to cooperative policies coordinating state and local law enforcement agencies as they relate to preventing and solving crimes, controlling criminal activities, and providing forensic services including adopting policies, procedures, and standards for operating state-operated crime laboratories.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

None apparent.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

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(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 20.201, 943.01, 943.04, 943.05, 943.051, 943.0510, 943.052, 943.0525, 943.053, 943.055, 943.056, 943.08, 943.09, 943.10, 943.133, 943.17, 943.173, 943.25, 943.32, 943.35, 943.355, 938.07, 316.640, 943.26, and 943.381, F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None apparent.

2. Recurring Effects:

As noted by OPPAGA, there can be expectations of cost-efficiency and effectiveness of the department's programs as the PB² process continues for FDLE. Because the intent of this committee substitute is to align the agency's organizational structure with adjustments that have already been made for FDLE in the appropriations process, it is not anticipated that funding will decrease as a result of this legislation. Although increases in funding to the department may occur as a result of other factors, it is not anticipated that any funding increases to FDLE would occur as a direct result of this committee substitute.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

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C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

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