

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1028

SPONSOR: Senator Mitchell

SUBJECT: Concealed weapon or firearm license -- retired officers

DATE: March 11, 1999

REVISED: 03/17/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gomez</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>FR</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Currently, when a Florida law enforcement officer, correctional officer, or correctional probation officer retires he or she is exempt from the concealed weapon and firearm licence fee and renewal fee as well as a background investigation for 1 year subsequent to his or her retirement date. This bill provides a total license fee exemption for law enforcement officers who retire from at least 20 years of service in this state or any other state.

The bill applies to *all* retired law enforcement officers with at least 20 years of service, whether they served for a department in Florida or for a department in any other state. The bill does not effect retired correctional officers and correctional probation officers -- they would still have to pay the licencing fees.

This bill takes effect on July 1, 1999.

This bill substantially amends the following section of the Florida Statutes: 790.06

II. Present Situation:

A. Florida's concealed weapons licensing

In 1987, the Legislature created the Concealed Weapons Licensing Program in s. 790.06, F.S. The program permits the issuance of licenses to citizens who wish to carry a concealed weapon or firearm for lawful self-defense. "Weapons or firearms" are defined as "a handgun, electronic weapon or device, tear gas gun, knife, or billie (club), but the term does not include a machine gun." s. 790.06(1), F.S. A concealed firearm is "any firearm which is carried on or about a person in such a manner as to conceal the firearm from ordinary sight of another person." s. 790.001(2), F.S.

Carrying a concealed weapon or firearm without a license, improperly exhibiting a weapon or firearm, or openly carrying a weapon or firearm is prohibited. ss. 790.01, 790.10, and 790.053, F.S. It is a first degree misdemeanor to carry a weapon without a valid license and a third-degree felony to carry a firearm without a license. s. 790.01, F.S.

Citizens who desire a legal means to carry a concealed weapon or firearm for lawful self-defense are eligible for a license when they meet the qualifications under subsections (2) and (3) of s. 790.06, F.S. An applicant must meet numerous qualifications including that the applicant:

- ▶ Is a resident of the United States or is a consular security official of a foreign government;
- ▶ Is at least 21 years of age;
- ▶ Does not or has not abused alcohol or other substances;
- ▶ Is not mentally incapacitated;
- ▶ Is not ineligible to possess a firearm because of a prior felony conviction;
- ▶ Has not been convicted of a violent misdemeanor or had adjudication withheld on a felony within 3 years; and
- ▶ Demonstrates competence with a firearm.

Concealed weapons licenses are valid for 5 years, after which the license holder may apply for a renewal license. The Department of State administers the concealed weapons licensing program. On December 31, 1998, there were 224,341 individuals who held valid licenses to carry concealed weapons and firearms in Florida.

The department may impose nonrefundable license fees not exceeding \$85 and renewal fees not exceeding \$70. Currently the department is charging \$65 for the initial licensing and \$65 for the renewal. The applicant must also pay for processing the fingerprint background check, currently \$42. The department has 90 days to process the license application. s. 790.06(4), (5), and (6), F.S.

Active law enforcement officers, correctional officers, and correctional probation officers, as defined in s. 943.10(1), F.S., are exempt from the licensing requirements of s. 790.06, F.S. This includes part-time and auxiliary law enforcement officers. (See definitions below). This means that an officer is free to carry a concealed firearm or weapon, on or off duty, without having to obtain a license. *See also* s. 790.052, F.S.

However, should an officer decide to obtain a license, subsection (5) of s. 790.06, F.S., provides that active law enforcement officers, correctional officers and correctional probation officers are exempt from all background investigations and all background investigation fees, although they must pay the current license fee.

When a law enforcement officer, correctional officer, or correctional probation officer retires, subsection (5) of s. 790.06, F.S., provides that he or she is exempt from the required fees as well as a background investigation for 1 year subsequent to his or her retirement date. Also, according to the department, retired officers are charged a reduced renewal fee of \$30.

B. Definitions of law enforcement, correctional and correctional probation officers

Section 943.10, F.S., contains the following definitions:

- ▶ "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.
- ▶ "Correctional officer" means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.
- ▶ "Correctional probation officer" means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level.
- ▶ "Part-time law enforcement officer" means any person employed or appointed less than full time, as defined by an employing agency, with or without compensation, who is vested with authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.
- ▶ "Part-time correctional officer" means any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.
- ▶ "Auxiliary law enforcement officer" means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions.

III. Effect of Proposed Changes:

This bill provides a concealed weapon and firearm licence fee and renewal fee exemption for law enforcement officers who retire from at least 20 years of service in this state or any other state.

The bill applies to *all* retired law enforcement officers with at least 20 years of service, whether they served for a department in Florida or for a department in any other state. The bill does not effect retired correctional officers and correctional probation officers -- they would still have to pay the licencing fees.

The bill exempts law enforcement officers only from the license fee and the renewal fee. After the 1 year exemption provided for in current law, a law enforcement officer would not be exempt from a background investigation and associated fees.

This bill takes effect on July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Retired law enforcement officers will experience a positive fiscal impact by the fee exemption provided in this bill.

C. Government Sector Impact:

The concealed weapon and firearm licensing program is self-funded through license holder fees. The revenue impact of the bill's "in state" law enforcement officer fee exemption should be minimal. According to the Department of State's Division of Licensing, there are a total of

224,341 individuals holding active concealed weapon or firearm licenses. (Figures from December 31, 1998). The Department's analysis states:

Of these active licenses, only 2,828 (or approximately 1%) are retired law enforcement officers, correctional officer, or correctional probation officers. Assuming all retired officers renewed their licenses (which is \$30 for a retired officer), over a 5 year period, the state would collect \$84,840 in license renewal fees or \$16,968 per year. The proposed bill, however would only exempt "law enforcement officers"-- not correctional officer or correctional probation officer, so the total loss of renewal revenues would be somewhat less.

The department does not expect much of an impact for "in state" initial licensing of officers since "it is likely that most in-state law enforcement officers who retire after 20 years of service and desire a concealed weapon license, would take advantage of the one-time total exemption of fees under current law."

The impact of the "out of state" law enforcement officer exemption is more difficult to determine since it is not known how many current license holder are retired officers from out of state or how many retired out of state officers would come into Florida and apply for a license.

VI. Technical Deficiencies:

The bill applies to law enforcement officers from "any other state ... as defined in s. 943.10(1)." However, the definition in s. 943.10(1), F.S., contemplates Florida law enforcement officers and does not address law enforcement officers from any other state.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Criminal Justice:

This amendment removes the reference to "any other state" to narrow the scope of the bill to Florida officers. The amendment also inserts "correctional officer" and "correctional probation officer" to provide a fee exemption for these officers if they have at least 20 years of service in this state.