

STORAGE NAME: h1781.sa.doc

DATE: April 3, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 1781

RELATING TO: State Motor Vehicles

SPONSOR(S): Representative(s) Machek

TIED BILL(S): None

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

- (1) STATE ADMINISTRATION
- (2) CRIME PREVENTION, CORRECTIONS, & SAFETY
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4) COUNCIL FOR SMARTER GOVERNMENT
- (5)

I. SUMMARY:

This bill provides that vehicles assigned to state officers and employees, who perform duties related to law enforcement, are covered by state collision insurance while such officers and employees are engaged in official state business. This includes incidental stops while commuting to and from work, authorized lunch breaks, and off-duty law enforcement details that involve the protection of persons or property.

Currently, State of Florida General Liability Insurance covers the Florida Department of Law Enforcement vehicles. These vehicles are covered with the exception of off-duty detail.

This bill has an indeterminate fiscal impact on FDLE and any other agency using state vehicles. The specific language, "state collision insurance," does not reflect the current coverage that the state pays for collision damage to a state vehicle. Cost to repair collision damage (accident) to a state vehicle is paid from current year appropriations on a "pay as you need" basis. Currently, there is no collision damage policy for state vehicles. It would appear that if the term state collision insurance is not changed to reflect more specific detailed language or additional language directing the Department of Management Services (DMS) to purchase such state collision insurance, there might not be any fiscal impact.

Should the bill be amended to specifically require DMS to purchase coverage for collision damage to state motor vehicles, it is anticipated that the cost to DMS to purchase such expanded coverage would increase. DMS is currently conducting a statewide fiscal impact analysis in an attempt to approximate such costs.

The member has filed a strike-everything amendment, which contains the language in this bill and that language in Senate Bill 2026.¹ It appears, in part, to waive Florida's sovereign immunity law, within the limits provided, with regard to

loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision in the operation of a motor vehicle, or for the acts of the employee in connection with operating the vehicle, while the employee operator was not acting in the course and scope of employment.

¹ Senate Bill 2138 also contains all of the provisions in both of those bills.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 287.17, F.S.

Section 287.17, F.S., provides that motor vehicles owned, leased, or operated by any state agency² must be available for official state business only as authorized by agency heads.³

When determining appropriate uses of a motor vehicle, the following criteria must be met:

- Whether the use of a motor vehicle is necessary to carry out state official or employee job assignments.
- Whether the use of a motor vehicle is for transporting an employee, state official, or other person authorized by the agency head for purposes of conducting official state business⁴ or for purposes of performing services for the state.
- Whether the Department of Law Enforcement has been directed by the agency head to provide security or transportation.
- Whether an emergency exists requiring the use of a motor vehicle for the protection of life or property.⁵

An agency head may assign a motor vehicle to a state officer or employee only if the officer or employee is projected to drive the motor vehicle a minimum of 10,000 miles annually on official state business, unless an agency head annually provides written justification for the need of the

² Section 287.012(1), F.S., defines "agency" as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government." It does not include the Board of Regents or the State University System.

³ Section 287.012(2), F.S., states that "agency head" means, "with respect to an agency headed by a collegial body, the executive director or chief administrative officer of the agency."

⁴ Section 287.17(3), F.S., state that the term "official state business" may not be construed to permit the use of a motor vehicle for commuting purposes, "unless special assignment of a motor vehicle is authorized as a perquisite by the Department of Management Services, required by an employee after normal duty hours to perform duties of the position to which assigned, or authorized for an employee whose home is the official base of operation."

⁵ See s. 287.17(2), F.S.

assignment of a motor vehicle.⁶ An agency may also assign motor vehicles to state officers and employees who perform duties related to law enforcement. However, the agency head must not assign a “pursuit motor vehicle to an officer or employee whose job duties do not routinely require performance of a patrol or law enforcement function requiring a pursuit vehicle.”⁷

Section 287.025, F.S., Prohibition against certain insurance coverage on specified state property or insurable subjects

Section 287.025(1), F.S., provides that

[n]o primary contract of insurance shall be purchased on insurable subjects or property titled in the name of the state or its departments, divisions, bureaus, commissions, or agencies with respect to any of the following properties, coverages, or insurable subjects:

(a) Physical damage insurance⁸ on motor vehicles which are licensed for use on the public highways of this state.

Section 287.025(2), F.S., provides that excess insurance may be purchased to cover loss for physical damage on motor vehicles, which are licensed for use on the public highways of this state, or risk if the aggregate exposure at any one location or actual cash value of any one item exceeds the sum of \$10,000.

Florida Department of Law Enforcement (FDLE) Vehicles

Currently, State of Florida General Liability Insurance covers FDLE vehicles. These vehicles are covered with the exception of off-duty detail.⁹

Under current FDLE policy, FDLE sworn officers¹⁰ who choose to work off-duty may utilize their state vehicle if the use of the vehicle is pertinent to the off-duty employment. However, FDLE sworn officers must obtain prior approval for the off-duty employment and show evidence of either personally secured vehicle liability and property damage coverage for the vehicle, or coverage by the off-duty employer. Due to these strict requirements, few of the FDLE sworn officers utilize state vehicles for off-duty employment.¹¹

Last year, FDLE had 107 sworn officers who worked some type of off-duty employment. This represents approximately 28 percent of sworn officers. Of these 107 sworn officers, 87 sworn officers worked “law enforcement related” off-duty employment.¹²

C. EFFECT OF PROPOSED CHANGES:

This bill provides that vehicles assigned to state officers and employees, who perform duties related to law enforcement, are covered by state collision insurance while such officers and employees are

⁶ See s. 287.17(4)(a), F.S.

⁷ Section 287.17(4)(b), F.S.

⁸ “Physical damage insurance” means coverage against collision, upset or overturn, fire, theft, combined additional coverage, or comprehensive. Section 287.025(1)(a), F.S.

⁹ Analysis by the Florida Department of Law Enforcement, April 5, 2001.

¹⁰ Pursuant to information received from the Palm Beach County Sheriff’s Office, a “sworn officer” means any officer empowered to make arrests in enforcing the laws of the state. A sworn officer’s powers are therefore equivalent to those of a “law enforcement officer” as defined in Fla. Stat. 943.10(1), (2000).

¹¹ *Id.*

¹² *Id.*

engaged in official state business. This includes incidental stops while commuting to and from work, authorized lunch breaks, and off-duty law enforcement details that involve the protection of persons or property. Off-duty law enforcement details appear to cover secondary employment, for example, a security guard position.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill has an indeterminate fiscal impact on FDLE and any other agency using state vehicles. The specific language, "state collision insurance," does not reflect the current coverage that the state pays for collision damage to a state vehicle. Cost to repair collision damage (accident) to a state vehicle is paid from current year appropriations on a "pay as you need" basis. Currently, there is no collision damage policy for state vehicles. It would appear that if the term state collision insurance is not changed to reflect more specific detailed language or additional language directing the Department of Management Services (DMS) to purchase such state collision insurance, there might not be any fiscal impact.¹³

Should the bill be amended to specifically require DMS to purchase coverage for collision damage to state motor vehicles, it is anticipated that the cost to DMS to purchase such expanded coverage would increase. DMS is currently conducting a statewide fiscal impact analysis in an attempt to approximate such costs.¹⁴

¹³ Analysis by the Florida Department of Law Enforcement, April 5, 2001.

¹⁴ *Id.*

The number of accidents sworn members are involved in varies from year to year. Furthermore, it is unknown if the FDLE policy would be relaxed to routinely allow sworn members to use a state vehicle for off-duty employment should the bill pass. Hence, the fiscal impact to FDLE is indeterminate.¹⁵

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

This bill implies that DMS must obtain full insurance collision coverage for state vehicles for law enforcement officers under certain conditions. Under the authority of s. 287.022, F.S., DMS would be required to purchase physical damage coverage, in violation of s. 287.025(1)(a), F.S., which prohibits the procurement of property damage insurance for any purpose, up to the excess amount of \$10,000.¹⁶

However, if the statute is read in concurrence with s. 287.025(2), F.S., to require DMS to only procure excess insurance above \$10,000, then physical damage insurance has a valuation of actual cash value. Currently, DMS has not procured any collision insurance at all for these types of vehicles.¹⁷

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

¹⁵ *Id.*

¹⁶ Department of Management Services 2001 Substantive Bill Analysis, draft, received April 11, 2001.

¹⁷ *Id.*

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VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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