

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 805 w/CS Vehicle Insurance/Law Enforcement

**SPONSOR(S):** Dean

**TIED BILLS:** none

**IDEN./SIM. BILLS:** CS/SB 1934 (s)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) State Administration	5 Y, 0 N w/CS	Bond	Everhart
2) Commerce & Local Affairs Apps. (Sub)	9 Y, 0 N	Rayman	Belcher
3) Appropriations			
4)			
5)			

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### SUMMARY ANALYSIS

Law enforcement officers are liable for damage to state patrol vehicles that occur while they are operating the vehicle outside of their official duties. This liability includes periods of incidental use related to their employment, the most common of which is use during an authorized meal period. This bill provides that a state law enforcement officer is not liable for damage to an assigned state-owned vehicle during periods of incidental use authorized by the agency employer.

Many law enforcement officers work in authorized off-duty positions where they are required to wear a uniform and utilize their assigned state-owned vehicle. Current law requires a law enforcement officer utilizing a state-owned vehicle for authorized off-duty work to reimburse the state for the reasonable value of the use of the vehicle. This bill requires the state to further assess such officers an insurance premium to cover damage to a vehicle.

The Department of Financial Services, Division of Risk Management, requires two positions (FTE) and \$87,321 in the State Risk Management Trust Fund to administer the provisions of the bill. Increased premium costs for off-duty vehicle coverage will impact applicable state law enforcement officers. It is anticipated that premium assessments would cover actual loss experience. This bill does not impact local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0805c.ap.doc

**DATE:** April 2, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

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

This bill will increase the duties and responsibilities of the Division of Risk Management, and may partially assume an insurance program currently in the private sector.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

The State Risk Management Trust Fund (Risk Management Program), administered by the Division of Risk Management of the Department of Financial Services, is required to provide liability coverage for state employees who operate state-owned vehicles.<sup>1</sup> This liability coverage is provided for an employee when the vehicle is used for “official state business” or “in the course and scope of employment.”

The state currently owns 4,625 law enforcement vehicles.<sup>2</sup> Law enforcement officers are not considered to be using a vehicle for official state business or in the course and scope of employment when the officer is on a meal break, even though the employer requires that the officer stay in possession of the vehicle. Thus, such officers are personally liable for accidents that occur during a break period.

Many law enforcement officers engage in some form of supplemental employment, such as off-duty and secondary employment. Officers may be authorized to perform off-duty police work, the most visible example being security of Department of Transportation construction sites. Such officers perform the off-duty work in uniform, and are required to have possession of their assigned law enforcement vehicle. Those officers are required to reimburse the state for the reasonable value of the use of the state-owned vehicle, and are personally liable for loss or damage to the vehicle. Some officers are willing and able to purchase supplemental coverage from their insurance agent. Many officers, however, cannot or will not purchase such insurance.<sup>3</sup>

##### Effect of Bill

This bill creates s. 284.311, F.S., to provide that, where a law enforcement officer is required to reimburse the state for use of a state-owned vehicle while performing off-duty work, the reimbursement must include reimbursement to the state for the equivalent of a vehicle damage insurance policy. The Division of Risk Management is directed to operate the program, and may promulgate rules regarding the program. The deductible amount is limited to \$500. Reimbursement is limited to situations where

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<sup>1</sup> Section 284.31, F.S.

<sup>2</sup> According to the Department of Management Services.

<sup>3</sup> Presently, of the major automobile insurance carriers in the state: Allstate provides comprehensive coverage; Nationwide, State Farm, and USAA provide liability only coverage, and Progressive does not offer such coverage.

the employee was deemed at fault in the accident and was using the vehicle in the course of the approved off-duty work.

This bill amends s. 287.17, F.S., to provide that "official state business", as it applies to the use of a state-owned vehicle, includes incidental use of the vehicle by a law enforcement officer for meal breaks and incidental stops authorized by the agency, provided that such trips are not a substantial deviation from official state business. The effect of this change is that law enforcement officers will not be personally liable to the state for damage to such vehicles during incidental use.

C. SECTION DIRECTORY:

Section 1 creates s. 284.311, F.S., regarding property damage coverage for state vehicles used by off-duty law enforcement officers.

Section 2 amends s. 287.17, F.S., regarding the definition of "official state business" regarding use of state-owned vehicles by on-duty law enforcement officers.

Section 3 provides an effective date of July 1, 2004.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Recurring	<u>FY 2004-05</u>	<u>FY 2005-06</u>
Premium/Assessments	To Be Determined	To Be Determined

(Premiums/Assessments for off-duty employment to be determined by a consultant; deductibles to be determined by Rule.)

2. Expenditures:

Operating Expenditures:

Recurring

2 FTE Accountant II (PG 16)

Salaries and Benefits	\$64,283	\$66,211
Expenses	10,832	10,832
Actuarial Consultant	<u>3,000</u>	<u>3,600</u>
Total recurring	\$78,115	\$80,643

Non-Recurring

Expenses	\$5,206
Operating Capital Outlay	<u>4,000</u>
Total non-recurring	\$9,206

Total Operating Expenditures	\$87,321	\$80,643
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Non-Operating Expenditures:

Recurring

Payment of Losses to Agencies	<u>\$835,242</u>	<u>\$860,300</u>
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Total Expenditures	<u>\$922,563</u>	<u>\$940,943</u>
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not affect local governments.

2. Expenditures:

None. This bill does not affect local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some law enforcement officers currently purchase a supplemental rider (approximate annual cost of \$60) to their personal automobile insurance policy that covers the circumstances that would be covered by this bill. The insurance companies that write this coverage, and their agents, may be minimally harmed by the reduction in premiums (and profits) resulting from this bill.

D. FISCAL COMMENTS:

This bill will result in increased expenditures from the State Risk Management Trust Fund to pay auto claims resulting from off-duty and personal use of state vehicles by law enforcement officers. This analysis assumes that liability coverage and property damage coverage will be provided for this use and workers' compensation coverage will be provided for personal use. It is estimated that an average vehicle will be used an additional 25% for personal use and an additional 30% each week for off-duty use. This bill allows Risk Management to assess the law enforcement officer a reasonable premium for off-duty use and a per accident deductible up to \$500 which will reduce the net expenditures by Risk Management for off-duty related accidents. It is estimated Risk Management will need an additional 2.0 FTE (Accountant II positions at an annual cost of \$64,283) to assess and collect insurance premiums for off-duty use and the deductible amount per accident. It will also be necessary to annually retain the services of an Actuarial Consultant to calculate premiums and deductible amounts. The initial annual cost of these services is estimated to be \$3,000. Risk Management will also have to adjust the additional auto claims resulting from this additional use, which can be done with existing staff. Costs are increased 3% per year for inflation.

**INCREASED COST OF OFF-DUTY LAW ENFORCEMENT ACCIDENTS (LIABILITY):** For the thirty one (31) month period, 8/2000-3/2003, there were forty two (42) off duty crashes at the Florida Highway Patrol (FHP) or 1.35 crashes per month or 16.2 per year. FHP has 2,167 of approximately 5,000 law enforcement vehicles in the State of Florida or 43%. The remaining 57% are at other agencies with a law enforcement function. Multiply the yearly number of FHP crashes by a factor of  $57\%/43\% = 1.32$  x 16.2 FHP crashes = 21.4 crashes per year for all other agencies. The total number of off-duty crashes per year for all law enforcement vehicles is estimated to be  $16.2 \times 21.4 = 37.6$  crashes.

For Fiscal Years 2000/01, 2001/02 and 2002/03, the average cost of an auto liability claim was approximately \$6,956.00. Multiply this figure times the projected number of crashes, 37.6, the increased cost to Risk Management for one year to cover liability claims for law enforcement vehicles for off-duty use would be approximately \$261,546.

**INCREASED COST OF PERSONAL USE LAW ENFORCEMENT ACCIDENTS (LIABILITY):** The Division of Risk Management estimates that a law enforcement vehicle would be used an additional 30% for off-duty use and 25% for personal use if this bill becomes law. To determine the number of expected personal use crashes per year,  $37.6$  off-duty crashes x  $25\%/30\% = 31.3$  crashes. The increased yearly cost for personal use liability coverage is projected to be  $31.3$  crashes x  $\$6,956 = \$217,723$ .

INCREASED COST OF OFF-DUTY LAW ENFORCEMENT ACCIDENTS (PROPERTY DAMAGE TO STATE VEHICLE): As Risk Management has historically only provided automobile liability coverage, they do not have any data on the cost of repairs to state law enforcement vehicles in off-duty accidents. In addition, they were unable to document complete off-duty repair costs at this time for law enforcement vehicles. Assuming the cost of property damage claims paid to third party claimants is essentially the same as damage to the state vehicle, they can calculate an estimate of the increased costs to repair the state vehicles.

For Fiscal Year 2000/01, 2001/02 and 2002/03, the average cost of an auto liability claim (property damage only) was approximately \$2,231. Multiply this figure times the projected number of crashes, 37.6, the increased cost to Risk Management for one year to pay property damage to law enforcement vehicles for off-duty use would be approximately \$83,886.

INCREASED COST OF PERSONAL USE LAW ENFORCEMENT ACCIDENTS: (PROPERTY DAMAGE TO STATE VEHICLE): The increased yearly cost for personal use property damage is projected to be 31.3 crashes x \$2,231 = \$69,830.

WORKERS' COMPENSATION: The average cost of a workers' compensation claim resulting from a motor vehicle accident for the period 1998-2002 was \$6,462. It is estimated that this bill will result in increased workers' compensation costs for personal use accidents. Increased annual costs are estimated to be 31.3 crashes x \$6,462 = \$202,257.

	<u>FY 2004-05</u>	<u>FY 2005-06</u>
CRASHES (LIABILITY)		
31.3 Personal Use	\$217,723	\$224,255
37.6 Off-Duty Use	<u>\$261,546</u>	<u>\$269,392</u>
68.9 Combined	\$479,269	\$493,647
PROPERTY DAMAGE		
31.3 Personal Use	\$ 69,830	\$ 71,925
37.6 Off-Duty Use	<u>\$ 83,886</u>	<u>\$ 86,403</u>
68.9 Combined	\$153,716	\$158,328
WORKERS' COMPENSATION		
31.3 Personal Use	<u>\$202,257</u>	<u>\$208,325</u>
Totals	<u>\$835,242</u>	<u>\$860,300</u>

ADDITIONAL COMMENTS: The Division of Risk Management has historically only provided automobile liability coverage and does not have the data on collision damage to state vehicles. Consequently they cannot certify that the data they have secured concerning the amount of property damage for law enforcement vehicles is complete and comprehensive.

CS/805 expands the definition of 'official state business' to permit lunch/meal breaks and incidental personal errands. It is unclear as to whether or not property damage, as a result of being in the course of revised 'official state business', will be handled (paid) by the specific law enforcement agency or Risk Management. If handled by the specific law enforcement agency, a reduction in the fiscal impact statement may be taken for the 'property damage; personal use' costs (FY 2004/05 - \$69,830; FY 2005/06 \$71,925).

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not impact or effect municipalities or counties.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

Section 1 of this bill provides the Division of Risk Management with rule-making authority regarding the property damage coverage provided for off-duty law enforcement officers.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill should clarify the insurance premium type or individual reimbursement for damages. The bill should clarify the administration of the reimbursement of insurance costs and agencies involvement. Currently the division receives an annual assessment for casualty and property premiums from agencies.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 15, 2004, the Committee on State Administration adopted "remove everything after the enacting clause" amendment that removed the unclear requirement that the state purchase insurance on law enforcement vehicles, added section 2 regarding official use of a vehicle, and added section 1 regarding an insurance program for off-duty use. The bill was then reported favorably with a committee substitute.

On April 2, 2004, the Subcommittee on Commerce and Local Affairs Appropriations adopted an amendment providing an appropriation in the State Risk Management Trust Fund and two positions (FTE) in the Division of Risk Management to administer the provisions of the bill. The bill as amended was favorably reported.