

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 805w/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) <u>State Administration</u>	<u>5 Y, 0 N w/CS</u>	<u>Bond</u>	<u>Everhart</u>
2) <u>Commerce &amp; Local Affairs Approp. (Sub)</u>	_____	_____	_____
3) <u>Appropriations</u>	_____	_____	_____
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.

This bill represents recurring revenues of \$166,000 commencing in FY 2004-2005, a nonrecurring expenditure in FY 2004-2005 of \$9,200, and a recurring expenditure of \$660,000 (2.0 FTE's), commencing in FY 2004-2005. Income and expenditures all affect the State Risk Management Trust Fund. This bill does not appear to have a fiscal impact on local governments.

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

**STORAGE NAME:** h0805a.sa.doc  
**DATE:** March 16, 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 DOT 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 amends s. 284.311, F.S., regarding property damage coverage for state vehicles used by off-duty law enforcement officers.

Section 2 creates 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:

The Division of Risk Management estimates recurring expenses of approximately \$166,000 annually related to section 1 of this bill. Section 284.30, F.S., requires deposit of those revenues into the State Risk Management Trust Fund.

2. Expenditures:

This bill requires 2.0 FTE's and would increase recurring expenditures for the state, by \$661,017 for FY 2004-05 and \$671,551 for FY 2005-06. These costs are associated with:

- Additional liability, property damage, and workers' compensation claims.
- Creating a property damage coverage program for off-duty work.
- Associated staffing for this program.

The Division also estimated that it would incur \$9,206 for nonrecurring expenditures in FY 2004-05 for expenses and other capital outlay associated with staffing.

Payment of expenditures required by this bill are from the State Risk Management Trust Fund.

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 (apx. 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:

None.

### 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:

None.

### 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.