

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

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Prepared By: Domestic Security Committee

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BILL: CS/SB 1062

SPONSOR: Domestic Security Committee

SUBJECT: Seaport Security Officers

DATE: March 28, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>DS</u>	<u>Fav/CS</u>
2.	<u>Siebert</u>	<u>Cooper</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>CJ</u>	_____
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This committee substitute establishes a certification program for Seaport Security Officers and allows seaport authorities and governing boards to require security officers working on a seaport to receive additional training and designation as a certified Seaport Security Officer.

This committee substitute also authorizes certified Seaport Security Officers to detain, based on probable cause, persons believed to be trespassing in designated seaport restricted access areas pending the immediate arrival of a law enforcement officer.

This committee substitute establishes a waiver process for persons who have been determined not qualified for initial employment at a seaport pursuant to statute.

Finally, this committee substitute establishes a maritime domain awareness training program for security awareness training of all seaport workers.

This committee substitute amends s. 311.12 and creates the following sections of the Florida Statutes: 311.121, 311.122, and 311.123.

## II. Present Situation:

### Seaport Security Officer Training and Certification

Prior to 2000, seaport security in Florida was focused on supply chain theft prevention to protect the commercial interests of seaport tenants. Since 2001 considerable effort and resources have been devoted to improving physical security and security operations at Florida's commercial seaports to meet the ongoing concerns about drug trafficking and the emerging threat of

terrorism. Florida pursued a successful strategy for seaport security improvements through grant funding now administered by the Transportation Security Administration of the Department of Homeland Security. However, these federal grants are restricted to pre-approved physical infrastructure improvements.

Improvements in security operations at Florida's seaports have been primarily funded through the Florida Seaport Transportation Economic Development Council (FSTED) and the commercial seaports individually. In order to accomplish these operational security improvements, the FSTED has voluntarily foregone needed economic development infrastructure projects. Concern for long-term funding of operational security costs prompted a review of operational structures at several public seaports by the Senate Domestic Security Committee.

Florida Senate Interim Project Report 2005-144, Seaport Security, November 2004, describes and documents the above situation and identifies several possible methods to reduce or mitigate operational security costs including the training and certification of seaport security officers.

As a general rule, private security personnel working on Florida's public seaports are required to maintain at a minimum, a CLASS D private security officer license,<sup>1</sup> including at least 40 hours of professional education completed at a school or training facility licensed by the Florida Department of Agriculture and Consumer Services. At least one port employs CLASS G security officers as a part of its private security force. These officers are permitted to carry firearms and must undergo additional training requirements prior to obtaining a state CLASS G license.<sup>2</sup>

With the exception of Port Manatee, the state's county-operated ports appear to have operational security costs which are substantially higher than other public ports. The extensive use of government law enforcement employees, with the inherent costs of salary and benefits associated with those personnel may be a driving factor in those higher costs. In fact, ports using a blend of sworn law enforcement, non-sworn law enforcement and private security forces had security operating costs of less than half that of the county operated facilities. One factor in the cost of security which is difficult to account for is the size of each port, both geographically and operationally. The two county-operated ports are the largest operationally, and thus have more activity requiring security presence on a daily basis. However, the extreme differences in security costs between Port Everglades and Port of Miami as compared to Jaxport and Port of Tampa point to the method of service delivery being the reason for higher costs.

The use of some form of blended security force, either through additional port security officers holding appropriate state licenses, or through contracted services provided by licensed personnel from private security firms might provide some reduction in costs for ports now using county personnel. For example, Port Everglades, through its contract with the Broward County Sheriff's Office, pays overtime costs to non-sworn personnel (CSAs) to stand guard at post assignments in cruise terminals when ships are in port. A private security officer, under the direction of sworn law enforcement, could perform this same duty under an hourly contract, thus saving the port the overhead costs of salary, benefits, administration and supervision. A focused review of the use of

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<sup>1</sup> Section 493.6303, F.S.

<sup>2</sup> Section 493.6115, F.S.

sworn and non-sworn law enforcement personnel by each public seaport could result in cost savings through a different proportion of sworn and non-sworn government and private personnel without the loss of appropriate levels of security.

Proper training of private security personnel employed to protect Florida's public seaports is an ongoing concern. Prevention, protection and response procedures on seaports are quite unique and require specialized education and training. While CLASS D and CLASS G security officers must receive specialized patrol and firearms training, respectively, there is no required additional training, nor any additional specialized seaport security certification or separate class of security officers that have completed such training, recognized by the State of Florida.

### **The Power to Detain**

Florida Statute authorizes a law enforcement officer, a merchant, a farmer, or their employee or agent, who has probable cause to believe that a retail theft, farm theft, or trespass, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time.<sup>3</sup> The subsection further prescribes that in the event the merchant, merchant's employee, farmer, or a transit agency's employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately after the person has been taken into custody. The subsection is also applicable to transit fare evasion with respect to detention.

No similar authorization to detain exists in Florida Statute in the case of a trespass offender found in a restricted area on a seaport. A licensed seaport security officer is currently not authorized to detain such a person pending the arrival of a law enforcement officer.

## **III. Effect of Proposed Changes:**

### **Section 1.**

This committee substitute amends s. 311.12, F.S., to establish a waiver process for persons who have been determined not qualified for initial employment at a seaport pursuant to s. 311.12 (3) (c), F.S.<sup>4</sup> This committee substitute directs the Department of Law Enforcement to establish a waiver program in order to review an individual's circumstance and determine whether the individual poses a risk of engaging in theft, drug trafficking, or terrorism.

As part of the process, this committee substitute also directs the administrative staff of the Parole Commission to conduct a factual review within 90 days of receipt of the application and forward its findings to the department for review. The Department of Law Enforcement shall make final disposition of the waiver application and notify both the applicant and the port authority that originally denied employment of that disposition.

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<sup>3</sup> Section 812.015 (3) (a), F.S.

<sup>4</sup> Failure to pass a fingerprint-based criminal history check.

**Section 2.**

This committee substitute creates s. 311.121, F.S., allowing each seaport authority or governing board subject to statewide minimum seaport security standards to require security officers working on the seaport to undergo additional training and become certified as a Seaport Security Officer. This committee substitute establishes eligibility criteria to undergo training or present equivalency qualifications for certification as a Seaport Security Officer. In addition, it grants the Department of Agriculture and Consumer Services authority to evaluate and determine equivalency.

This committee substitute provides for a steering committee to establish and periodically review a training curriculum for Seaport Security Officers. This committee substitute further assigns the Department of Education the responsibility for implementing the steering committee curriculum recommendations and requires instructors conducting Seaport Security Officer training to hold a CLASS DI license pursuant to s. 493.6301, F.S. This committee substitute clarifies that organizations desiring to teach the curriculum may apply to become a licensed school pursuant to s. 493.6304, F.S., and this committee substitute requires that the curriculum must conform to the model courses approved by the Maritime Administration under Section 109 of the federal Maritime Transportation Security Act of 2002.

This committee substitute also requires a candidate for certification to pass a proficiency examination and establishes criteria for maintaining valid certification. Finally, this committee substitute provides for the administration of the certification process and notification to the Division of Licensing of the Department of Agriculture and Consumer Services that a certificate has been issued.

**Section 3.**

This committee substitute creates s. 311.122, F.S., authorizing a seaport security officer holding a CLASS D or CLASS G license and Seaport Security Officer certification and acting as an agent of the seaport's federally designated Facility Security Officer (FSO), to detain a person believed to be trespassing in a designated seaport restricted access area until a law enforcement officer arrives on scene. In addition, this committee substitute provides protection for the Seaport Security Officer from criminal or civil liability for false arrest, false imprisonment, and unlawful detention.

**Section 4.**

This committee substitute creates s. 311.123, F.S., directing the Florida Seaport Transportation and Economic Development Council in conjunction with the Governor's Office of Drug Control and the Department of Law Enforcement to create a maritime domain awareness training program. The training shall be designed to instruct all seaport workers in security awareness including training required pursuant to 33 C.F.R. Part 105, individual seaport security plans, and s. 311.12, F.S.

**Section 5.**

This committee substitute provides an effective date of July 1, 2005

**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:**

There will be a cost associated with providing additional training for certification. This cost will likely be borne by the individual applicant seeking upgraded skills and certification. The impact to private sector security agency employers seeking higher skill level security officers is unknown.

**C. Government Sector Impact:**

This committee substitute is permissive to seaport authorities and governing boards with regard to requiring certified Seaport Security Officers. However, there are potential cost savings to public seaports given the ability to design an optimum security force mix of sworn and non-sworn law enforcement officers and certified Seaport Security Officers.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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