

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 345 W/CS

Florida Department of Law Enforcement

SPONSOR(S): Coley

TIED BILLS:

IDEN./SIM. BILLS: SB 1746

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	8 Y, 0 N, w/CS	Kramer	Kramer
2) Domestic Security Committee		Garner	Newton
3) Justice Appropriations Committee			
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

The Florida Department of Law Enforcement (FDLE) does not have traffic enforcement authority. HB 345 w/CS would grant traffic enforcement authority to all agents, inspectors, and officers of FDLE.

Currently, FDLE is charged with providing protective services to the Governor, the Governor's immediate family, and the Governor's office and mansion. FDLE also provides protective or transportation services to other persons in certain circumstances when requested by the Governor, the Lieutenant Governor, a member of the Cabinet, the Speaker of the House, the President of the Senate, or the Chief Justice of the Supreme Court. The Capitol Police is housed within FDLE and functions as the law enforcement agency for the Capitol Complex. HB 345 w/CS provides that the Executive Director of FDLE may authorize the Director of Capitol Police to oversee FDLE's responsibility for providing transportation and protective services. The bill also modifies the circumstances under which protective services can be provided.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government

The bill grants FDLE traffic enforcement authority. The bill w/CS requires FDLE to submit a report annually detailing all transportation or protective services provided. Currently, the report must be submitted biannually.

Maintain public security

The bill w/CS clarifies provisions relating to protective services functions of the Capitol Police.

B. EFFECT OF PROPOSED CHANGES:

Capitol Police

During the 2002 session, legislation was passed which placed Capitol Police within the Florida Department of Law Enforcement (FDLE).¹ Currently, Capitol Police employs 61 sworn law enforcement officers.²

The Capitol Police is statutorily required to “serve the safety and security needs of both the legislative and executive branches of state government.”³ According to s. 943.61, F.S., the primary responsibility of Capitol Police is to protect the security of the Governor, the Lieutenant Governor, the members of the Cabinet, the Senate, and the House of Representatives and their employees, and “to ensure their access to buildings and premises within the Capitol Complex,⁴ thereby providing for the continuous operation of the government of the State of Florida.” The section also gives Capitol Police specified powers and duties including:

- Developing security plans for the Capitol Complex in consultation with the Governor, Cabinet officers, the President of the Senate and the Speaker of the House;
- Providing and maintaining security of all property located in the Capitol Complex;
- Developing emergency procedure plans;
- Employing certified law enforcement officers;
- Responding to complaints relating to criminal activity or security threats within the Capitol Complex;
- Providing protection for legislative members in certain circumstances; and
- Enforcing parking rules within the Capitol Complex.

The director of Capitol Police is nominated by the Executive Director of FDLE. The person nominated must be approved by the Governor, Senate, and the House of Representatives.

¹ See chapter 2002-21, L.O.F. Previously, the Capitol Police was housed within the Department of Management Services.

² According to information provided by Capitol Police, the Capitol Police has a total of 87 FTEs of which 61 positions are sworn. The sworn positions include the Director, Chief of Operations and Major of Operations. The remaining positions include Dispatchers/Duty Officers, non-sworn security officers and civilian employees.

³ Section 943.61(1), F.S.

⁴ Section 943.403, F.S., provides that for the purposes of “ss. 943.60-943.68, the term ‘Capitol Complex’ includes that portion of Tallahassee, Leon County, Florida, commonly referred to as the Capitol, the Historic Capitol, the Senate Office Building, the House Office Building, the Knott Building, the Pepper Building, the Holland Building, and the curtilage of each, including the state-owned lands and public streets adjacent thereto within an area bounded by and including Monroe Street, Jefferson Street, Duval Street, and Gaines Street. The term shall also include the State Capital Circle Office Complex located in Leon County, Florida.”

When authorized by Capitol Police, law enforcement officers of other state agencies, counties and municipalities can act as ex officio agents to enforce rules and laws applicable to the powers and duties of the Capitol Police to provide and maintain security. HB 345 w/CS amends s. 943.64, F.S., to provide that the Executive Director of the FDLE or his or her designee, rather than Capitol Police, must authorize officers of other agencies to perform duties as ex officio agents.

Section 943.68, F.S., provides that FDLE shall provide and maintain the security of the Governor, the Governor's immediate family and the Governor's office and mansion. The section also provides that FDLE shall provide security or transportation services to other persons when requested by the Governor, Lieutenant Governor, a member of the Cabinet, the Speaker of the House of Representatives, the President of the Senate, or the Chief Justice of the Supreme Court subject to certification by the agency head that such services are in the best interest of the state. The agency head must limit such services to persons:

- Who are visiting the state; for whom such services are requested by the one of the above listed officials and for whom the primary purpose of the visit is for a public purpose and to promote the development of the state; or
- For whom the failure to provide security or transportation could result in a clear and present danger to the personal safety of such persons or could result in public embarrassment to the state.

The section provides that the Executive Director of FDLE must assign agents to perform these services, subject to continuing approval of the Governor. Upon request of the Governor, the executive director must reassign an agent from performing these duties. According to information provided by the agency, FDLE has restructured and moved its Protective Operations Section under the command of the director of Capitol Police. HB 345 w/CS amends s. 943.611, F.S., to provide that at the discretion of the Executive Director of FDLE, the director of Capitol Police may serve as the director of the unit within the FDLE providing transportation and protective services. HB 345 w/CS modifies s. 943.68, F.S., to provide that the Executive Director of FDLE may authorize the director of Capitol Police to assign agents for the performance of protective services, and reassign an agent upon request of the Governor. The bill amends the list of powers and duties of Capitol Police to require it to carry out transportation and protective services described in s. 943.68, F.S.

HB 345 w/CS also clarifies that the party requesting the protective services (the Governor, Lieutenant Governor, Speaker of the House of Representatives, President of the Senate, Chief Justice of the Supreme Court or cabinet member) must certify that the protective services would be in the best interest of the state. The requesting party is required to limit the services to people that meet the specified criteria. The bill modifies the criteria by providing that the protective services can be provided for a person who is visiting the state, only if the visit is for a *significant* public purpose. The bill w/CS also provides that protective services can be given if failure to provide security or transportation could *endanger the safety of other persons or property within the state*.

FDLE is required to submit reports on July 15 and January 15 of each year to the President of the Senate, the Speaker of the House of Representatives, the Governor, and members of the Cabinet detailing the transportation and protective services provided in the preceding 6 months. HB 345 w/CS requires this report to be submitted annually rather than every six months.

Enforcement of Traffic Laws

Currently, officers of the following state agencies have authority to enforce all of the traffic laws of this state on all the streets and highways of the state and wherever the public has the right to travel by motor vehicle:

- The Department of Highway Safety and Motor Vehicles, Division of Florida Highway Patrol;
- The Fish and Wildlife Conservation Commission, Division of Law Enforcement;

- The Department of Environmental Protection, Division of Law Enforcement;
- The Department of Transportation, Office of Motor Carrier Compliance.

FDLE does not have traffic enforcement authority. Capitol Police is authorized to conduct traffic crash investigations⁵ and enforce traffic and parking rules established by the Department of Management Services,⁶ but has no authority to issue citations in conjunction with the investigations. HB 345 w/CS would grant traffic enforcement authority to all agents, inspectors and officers of FDLE.

C. SECTION DIRECTORY:

Section 1. Amends s. 943.61, F.S., revising the responsibilities and duties of Capitol Police.

Section 2. Amends s. 943.611, F.S., relating to duties of director of Capitol Police.

Section 3. Amends s. 943.62, F.S., relating to investigations of Capitol Police.

Section 4. Amends s. 943.64, F.S., relating to ex officio agents of Capitol Police.

Section 5. Amends s. 943.68, F.S., modifying provisions relating to transportation and protective services.

Section 6. Amends s. 316.640, F.S., granting FDLE agents traffic enforcement authority.

Section 7. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

⁵ Section 943.62, F.S., specifically authorizes the Capitol Police to conduct traffic accident investigations and investigations relating to felonies and misdemeanors occurring within the Capitol Complex.

⁶ Section 943.66, F.S.

According to an analysis provided by FDLE, the bill “will have a minimal fiscal impact for the additional training of FDLE agents, inspectors and officers concerning the administrative requirements for Uniformed Traffic Citations. This training will be incorporated into existing annual in-service training and the cost will be absorbed by existing resources.”

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No exercise of rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On Wednesday, March 9, 2005, the Committee on Criminal Justice adopted one amendment and then reported the bill favorably as amended with a committee substitute. The amendment ensures that the Executive Director of FDLE will retain sufficient authority in the event of a vacancy in the position of director of Capitol Police by providing that the director of capitol police may serve as the director of FDLE’s protective services unit at the discretion of the executive director of FDLE. The amendment also provides that protective services may be provided if necessary for the safety of other persons or property within this state.