

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty → The bill provides for a mechanism to safeguard the rights of individuals to maintain or gain employment on seaports through a waiver process of currently disqualifying circumstances.

Maintain Public Security → The bill provides public protections through due process ensuring that security credentialing on seaports is not compromised or usurped.

B. EFFECT OF PROPOSED CHANGES:

Currently, a seaport's security plan must provide that:

- Any person who has within the past 7 years been convicted, regardless of whether adjudication was withheld, for a forcible felony as defined in s. 776.08; an act of terrorism as defined in s. 775.30; planting of a hoax bomb as provided in s. 790.165; any violation involving the manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction as provided in s. 790.166; dealing in stolen property; any violation of s. 893.135; any violation involving the sale, manufacturing, delivery, or possession with intent to sell, manufacture, or deliver a controlled substance; burglary; robbery; any felony violation of s. 812.014; any violation of s. 790.07; any crime an element of which includes use or possession of a firearm; any conviction for any similar offenses under the laws of another jurisdiction; or conviction for conspiracy to commit any of the listed offenses shall not be qualified for initial employment within or regular access to a seaport or restricted access area; and
- Any person who has at any time been convicted for any of the listed offenses shall not be qualified for initial employment within or authorized regular access to a seaport or restricted access area unless, after release from incarceration and any supervision imposed as a sentence, the person remained free from a subsequent conviction, regardless of whether adjudication was withheld, for any of the listed offenses for a period of at least 7 years prior to the employment or access date under consideration.¹

This bill amends s. 311.12, F.S., in order to provide a review process for individuals who have been found unqualified for unescorted access and denied employment by a seaport for the above-described reasons. Under this provision, the Department of Law Enforcement (FDLE) will conduct a review based on a request for waiver from an individual who has been found unqualified according to the provisions of s. 311.12 (3) (e), F.S. The review will be based on the information submitted by the applicant and the findings from the Parole Commission administrative staff. Such a review is exempt from procedures required under the Administrative Procedures Act, Chapter 120, F.S.

In regards to seaport operators and third-party vendors who FDLE reasonably believes may pose a threat to the security interests of the state, the bill authorizes the state to refuse such entities access to seaports. The bill also authorizes FDLE to request from any seaport contractor all information that FDLE deems necessary to make a determination of that contractor's potential or creditable threat to seaport security. Failure to provide such information is grounds to disqualify the contractor from eligibility to be granted access to seaports.

¹ s. 311.12, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 311.12, F.S., requiring the Department of Law Enforcement to establish a waiver process to grant certain individuals unescorted access to seaports or restricted areas under certain circumstances; providing waiver process requirements; requiring the administrative staff of the Parole Commission to review the waiver application and transmit the findings to the Department of Law Enforcement; requiring the Department of Law Enforcement to make a final disposition of the application and notify the applicant and the seaport; exempting the waiver process from administrative procedures requirements.

Section 2. Creates s. 311.1244, F.S., authorizing the state to refuse seaport access to certain operators and vendors; authorizing the Department of Law Enforcement to request information for certain purposes; authorizing the Department of Law Enforcement to disqualify certain operators or vendors from eligibility for access to seaports.

Section 3. Provides severability.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The possible number of waivers to be processed is currently unknown and therefore associated costs can not be determined.

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 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 additional grant 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

At its meeting on March 8, 2006, the Domestic Security Committee adopted an amendment providing that the State of Florida may reserve the right to refuse access to port operators and third party vendors who the Florida Department of Law Enforcement reasonably believes may pose a threat to the security interests of the citizens of the state.

The amendment does not provide for a method of review.