

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7119 PCB SSC 08-12 Uniform Port Access Credential Card

SPONSOR(S): Safety & Security Council; Adams

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Safety & Security Council	9 Y, 0 N	Kramer/Davis	Havlicak
1) Policy & Budget Council	32 Y, 0 N	Leznoff	Hansen
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The federal government has authority over any public or private port facility located in, on, under, or adjacent to any waters subject to the jurisdiction of the U. S. The Maritime Transportation Security Act of 2002 (MTSA) signed into law on November 25, 2002 established a port security framework in the aftermath of the terrorist attacks of September 11, 2001.

The MTSA mandates that a National Maritime Transportation Security Plan and regional Area Maritime Transportation Security Plans be developed and implemented by the Coast Guard for deterring and responding to transportation security incidents. Vessels and port facilities are required to have comprehensive security plans and incident response plans based on detailed Coast Guard vulnerability assessments and security regulations. The law requires that access to security sensitive areas be limited through background checks and the issuance of transportation security cards. Persons accessing secure areas on vessels or facilities are required to undergo a background check. A biometric transportation security card must be issued to individuals allowed unescorted access to a secure area of a vessel or facility.

The Transportation Worker Identification Credential (TWIC) was established by Congress through the MTSA and is administered by the U. S. Transportation Security Administration (TSA) and the Coast Guard. TWICs are tamper-resistant biometric credentials that will be issued to all credentialed merchant mariners and workers who require unescorted access to secure areas of ports, vessels, or outer continental shelf facilities.

The bill permits the Department of Highway Safety and Motor Vehicles to designate the Transportation Security Administration's Transportation Worker Identification Credential card as the Uniform Port Access Credential Card. The bill authorizes DHSMV to set and collect a fee for entering a TWIC cardholder into the Uniform Port Access Credential System. The fee may not exceed the actual cost to DHSMV.

It is estimated that the revenue to the Highway Safety Operating Trust Fund for Fiscal Year 2008-09 will be \$1.4 million and will be \$252,000 in subsequent years. The annual cost to the department is estimated at \$487,104. The funding issues associated with this bill have been appropriated in the proposed General Appropriations Act.

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

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill authorizes DHSMV to designate the Transportation Security Administration's Transportation Worker Identification Credential card as the Uniform Port Access Credential Card.

B. EFFECT OF PROPOSED CHANGES:

Federal Law

The federal government has authority over any public or private port facility located in, on, under, or adjacent to any waters subject to the jurisdiction of the U. S. The Maritime Transportation Security Act of 2002 (MTSA)¹ signed into law on November 25, 2002 established a port security framework in the aftermath of the terrorist attacks of September 11, 2001.

The MTSA requires the Coast Guard to conduct vulnerability assessments of vessels and facilities on or adjacent to U.S. waters. It mandates that a National Maritime Transportation Security Plan and regional Area Maritime Transportation Security Plans be developed and implemented by the Coast Guard for deterring and responding to transportation security incidents. Vessels and port facilities are required to have comprehensive security plans and incident response plans based on detailed Coast Guard vulnerability assessments and security regulations. Such security plans must be approved by the Coast Guard.

The law requires that access to security sensitive areas be limited through background checks and the issuance of transportation security cards. Persons accessing secure areas on vessels or facilities are required to undergo a background check.

A biometric transportation security card must be issued to individuals allowed unescorted access to a secure area of a vessel or facility. Under a recently released final federal rule, individuals are denied unescorted port access if convicted or found guilty by reason of insanity of certain felonies.²

Transportation Worker Identification Credential

The Transportation Worker Identification Credential (TWIC) was established by Congress through the MTSA and is administered by the U. S. Transportation Security Administration (TSA) and the Coast Guard. TWICs are tamper-resistant biometric credentials that will be issued to all credentialed merchant mariners and workers who require unescorted access to secure areas of ports, vessels, or outer continental shelf facilities. It is anticipated that more than 750,000 workers including longshoremen, truckers, port employees and others will be required to obtain a TWIC.

Enrollment and issuance began at the Port of Wilmington, Delaware October 16, 2007 and will continue through calendar year 2008. To obtain a TWIC, an individual must provide biographic and biometric information such as fingerprints, sit for a digital photograph and successfully pass a security threat assessment conducted by TSA. Currently, there are no regulatory requirements pertaining to the use of

¹ Public Law 107-295.

² 49 CFR Part 1572

TWIC readers. However, initial testing and evaluation of TWIC readers will begin in calendar year 2008 as part of the pilot phase.³

Florida Law

In recent years, each of Florida's seaports⁴ has been required to develop individual security plans based on minimum statewide standards.⁵ As part of the security plan, a seaport is required to designate unrestricted and restricted access areas within the seaport.⁶ Persons working within or regularly entering restricted access areas are required to possess a Uniform Port Access Credential Card (commonly known as a FUPAC).⁷ All Uniform Port Access Credential Cards must be issued by the Department of Highway Safety and Motor Vehicles to the designated port authority or governing board for distribution to the applicant.

In order to obtain a FUPAC card, a person must undergo a fingerprint based criminal history check which includes state and federal processing. A person who has within the last 7 years been convicted of an offense specified in statute is disqualified from initial employment within or regular access to a restricted access area.⁸

According to s. 311.125(10), F.S., the cost of a FUPAC card is set by DHSMV and must reflect the cost of the required criminal history checks, including the cost of the initial state and federal fingerprint check and the annual criminal history check and the cost of production and issuance of the card by the department. A seaport is authorized to charge an additional administrative fee to cover the costs of issuing credentials to its employees and person doing business at the seaport.

Section 311.125(2)(b) provides that the state Uniform Port Access Credential System must be designed to conform, as closely as possible, with criteria established by the United States Transportation Security Administration for a TWIC required by federal law.⁹

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The bill amends s. 311.125, F.S. to provide that notwithstanding the provisions of the section, DHSMV may designate the Transportation Security Administration's Transportation Worker Identification Credential card as the Uniform Port Access Credential Card. DHSMV may set and collect a fee for entering a TWIC cardholder into the Uniform Port Access Credential System. The fee may not exceed the actual cost to DHSMV.

C. SECTION DIRECTORY:

Section 1. Amends s. 311.125, F.S. relating to Uniform Access Credential System.

Section 2. Provides effective date.

³ Source: Transportation Security Administration, http://www.tsa.gov/what_we_do/layers/twic/index.shtm

⁴ s. 311.09(1), F.S. specifies the following seaports: Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, Fernandina. Section 311.12(1)(b), F.S. permits the Department of Law Enforcement to exempt any seaport from having a security plan if the department determines that the seaport is not active. Currently, Fort Pierce and Port St. Joe are considered inactive ports for the purposes of complying with seaport security standards.

⁵ Chapter 2000-360, Laws of Florida.

⁶ s. 311.12(2), F.S.

⁷ s. 311.12(2)(c), F.S.

⁸ s. 311.12(3), F.S.

⁹ Public Law 107-295, Maritime Transportation Security Act of 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes DHSMV to designate the Transportation Security Administration's Transportation Worker Identification Credential card as the Uniform Port Access Credential Card. The bill authorizes DHSMV to set and collect a fee for entering a TWIC cardholder into the Uniform Port Access Credential System. The fee may not exceed the actual cost to DHSMV. At this point, the department estimates the cost to be \$28 per card. The department estimates that there will be 50,000 applicants in the first year and 9,000 applicants in each subsequent year. Based on this, the revenue to the Highway Safety Operating Trust Fund for Fiscal Year 2008-09 will be \$1.4 million and will be \$252,000 in subsequent years.

2. Expenditures:

According to DHSMV, the cost to the department for two previously authorized positions and related travel and equipment maintenance will be \$487,104 annually. The proposed General Appropriations Act provides for \$615,375 for issues associated with the Uniform Port Access Credential Card. The appropriation may be adjusted in the conference process to reflect the true cost.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will authorize DHSMV to designate the TWIC card as the FUPAC card. This may result in a cost savings to a worker who may have otherwise been required to have both a TWIC card and a FUPAC card.

D. FISCAL COMMENTS: See Fiscal Impact on State Government

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

N/A

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES