

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/SB 1100

INTRODUCER: Committee on Transportation

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: February 19, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/CS
2.			TA	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Senate Bill 1100 is the result of a mandatory review project relating to a review of the Department of Highway Safety and Motor Vehicles (department) under the Florida Government Accountability Act. The department serves over 15 million drivers with over 18 million registered vehicles, and enforces Florida laws on over 100,000 miles of highways.

As part of the department's Sunset Review, the Senate Committee on Transportation held meetings on December 11, 2007, and on January 22, 2008, and heard extensive testimony regarding the duties and responsibilities of the department. The committee also reviewed and considered Interim Mandatory Review 2008-215. On March 6, 2008, the committee made its recommendations to the Senate President.

While some of the recommendations of the committee have become law, the department was not continued as a result of the Governor's Veto of HB 5067 for the reasons stated by the Governor; therefore, the department and its advisory committees are subject to continuing review and may be abolished on June 30, 2009, unless the Legislature continues the department.

On December 9, 2008, the Senate Committee on Transportation reviewed Interim Mandatory Review 2009-217 and authorized the committee professional staff to prepare a proposed bill. On January 14, 2009, the Senate Committee on Transportation considered the proposed committee bill (SPB 7010) and directed the committee professional staff to file the proposed bill as a committee bill resulting in SB 1100.

Specifically, the bill reenacts and amends s. 20.24, F.S., relating to the creation of the department and the establishment of the Division of the Florida Highway Patrol, the Division of Driver Licenses, and the Division of Motor Vehicles. The bill amends s. 20.24, F.S., to delete the reference to the Bureau of Motor Vehicle Inspection within the Division of Motor Vehicles. This obsolete bureau was phased out over two fiscal years and eventually eliminated during FY 2001-2002.

In addition, the bill authorizes the department to implement the \$1 credit provision associated with the *Collier* Settlement Agreement.

This bill reenacts and amends s. 20.24 of the Florida Statutes and creates an undesignated section of law.

II. Present Situation:

Sunset Review Overview

Sections 11.901-920, F.S., are known as the Florida Government Accountability Act. Under this act, most state agencies and their respective advisory committees are subject to a "sunset" review process to determine whether the agency should be retained, modified or abolished.

Reviews are accomplished in three steps. First, an agency under review must produce a report providing specific information, as enumerated in s. 11.906, F.S. Upon receipt of the agency information, the Joint Legislative Sunset Committee and the House and Senate committees assigned to act as sunset review committees must review the information submitted and may request studies by the Office of Program Policy Analysis and Government Accountability (OPPAGA).

Based on the agency submissions, the OPPAGA studies and public input, the Joint Legislative Sunset Committee and the legislative sunset review committees must:

- Make recommendations on the abolition, continuation, or reorganization of each state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees; and
- Make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review.

In addition, the House and Senate sunset review committees must propose legislation necessary to carry out the committees' recommendations.

An agency subject to review is scheduled to be abolished on June 30 following the date of review as specified in s. 11.905, F.S., provided the Legislature finds all state laws the agency had responsibility to implement or enforce have been repealed, revised, or reassigned to another remaining agency and adequate provision has been made to transfer certain duties and obligations to a successor agency. If an agency is not abolished, continued, or reorganized, the agency shall continue to be subject to annual sunset review by the Legislature.

The Senate Committee on Transportation (committee) is the primary sunset review committee for reviews within the Department of Highway Safety and Motor Vehicles. The Senate Committee on Transportation and Economic Development Appropriations assisted in this review.

As part of the Sunset Review, the committee held meetings on December 11, 2007, and on January 22, 2008, and heard extensive testimony regarding the duties and responsibilities of the department. The committee also reviewed and considered Interim Mandatory Review 2008-215. On March 6, 2008, the committee made the following recommendations to the Senate President:

- The Legislature should continue the department.
- The Legislature should delete the obsolete Bureau of Motor Vehicle Inspection.
- The Legislature should continue the Florida Highway Patrol Advisory Council, the Automobile Dealer Advisory Board, the DUI Programs Review Board, and the Medical Advisory Board.
- The Legislature should abolish the Florida At-Risk Driver Council.
- The Legislature should adjust the driver's license and ID card fee structure to promote more tax collector participation in providing driver's license and ID card services.
- The Legislature should implement federal REAL ID requirements.
- The Legislature should support measures to improve customer services for driver's licenses.
- The Legislature should analyze data centers and administrative services of all state agencies to determine whether consolidation, transfer or reorganization of these services would provide a significant cost savings.

During the 2008 Legislative Session, the 2008 Legislature did enact legislation which did the following:

- Continued the department and the Florida Highway Patrol Advisory Council, the Automobile Dealer Advisory Board, the DUI Programs Review Board, and the Medical Advisory Board. (See HB 5067.)
- Deleted the obsolete Bureau of Motor Vehicle Inspection. (See HB 5067.)
- Abolished the Florida At-Risk Driver Council. (See SB 1992.)
- Implemented federal REAL ID requirements and measures to improve customer service. (See SB 1992.)
- Consolidated data centers of many state agencies. (See HB 1892)
- Adopted some of the Interim Mandatory Review 2008-215 recommendations into the General Appropriations Act. (See HB 5001.)

While some of the recommendations of the committee have become law, the department was not continued as a result of the Governor's Veto of HB 5067. Specifically, HB 5067 included a provision directing the selection process for fuel, food, and other service contracts along the Florida Turnpike. The Veto Message states:

Limiting the competitiveness of the procurement and squeezing out potential bidders increases cost to the Turnpike System: therefore, increasing costs to Florida's motorists.

I have based my administration upon openness and access to information. Specifically, I have directed agencies to conduct open, competitive, and transparent procurements. I believe that we must protect the confidence citizens have entrusted to their public servants, and we should commit to making the best use of their hard earned tax dollars. Therefore, it is disappointing that this important transportation bill was used to direct a procurement which benefits vendors over the citizens of Florida.

Due to the Governor's veto of HB 5067, the department and its advisory committees are subject to continuing review and may be abolished on June 30, 2009, unless the Legislature continues the department.

On December 9, 2008, the Senate Committee on Transportation reviewed Interim Mandatory Review 2009-217 and authorized the committee professional staff to prepare a proposed bill. On January 14, 2009, the Senate Committee on Transportation considered the proposed committee bill (SPB 7010) and directed the committee professional staff to file the proposed bill as a committee bill resulting in SB 1100.

Organization Structure of the department

Section 20.24, F.S., provides for the creation of the department and the establishment of the Division of the Florida Highway Patrol, the Division of Driver Licenses, the Division of Motor Vehicles, and the Bureau of Motor Vehicle Inspection. This section also specifies the Governor and Cabinet are the head of the department.

Collier Settlement

Collier, et al. v. Dickinson, et al. Case No. 04-21351-DV-JEM (S.D. Fla.) On June 7, 2004, a potential class action lawsuit was filed against present and former employees of the department as defendants and alleged damages to the potential class due to the continued disclosure of personal information maintained by the department and obtained from motor vehicle and driver license records in violation of 18 U.S.C. ss. 2721-2725 (DPPA). DPPA was effective June 1, 2000. Florida law allowed the disclosure of this information from June 1, 2000 until September 30, 2004 when s. 119.0712(2), F.S., was amended to mirror DPPA. The above legal action led to the change in Florida law. The initial complaint demanded approximately \$39 billion in damages or \$2,500 per release of information.

The above mentioned law suit resulted in three separate mediation sessions. The mediated agreement reached on June 5, 2008, provides all motor vehicle registrants who are class members (all natural persons who had a valid driver license, identification card or motor vehicle

registration) would receive a \$1 credit on the renewal of their motor vehicle registration during the period of July 1, 2009, through June 30, 2010. The total amount of the credit would be approximately \$10.4 million. There will also be equitable relief which includes changing the procedures of the department regarding disclosure of personal information. Additionally, the department will maintain a website informing the public of their rights under DPPA. Also, the Division of Risk Management would pay each of the four named Plaintiffs \$3,000, Plaintiffs' attorney fees in the amount of \$2.85 million, and costs of publication totaling approximately \$20,000.00. This agreement was accepted by the Cabinet on August 12, 2008; however, the \$1 credit for the settlement class is contingent upon approval and appropriation by the Legislature.

III. Effect of Proposed Changes:

Section 1 of the CS reenacts and amends s. 20.24, F.S., relating to the creation of the department and the establishment of the Division of the Florida Highway Patrol, the Division of Driver Licenses, and the Division of Motor Vehicles. The bill amends s. 20.24, F.S., to delete the reference to the Bureau of Motor Vehicle Inspection within the Division of Motor Vehicles. This obsolete bureau was phased out over two fiscal years and eventually eliminated during FY 2001-2002. The reenactment of s. 20.24, F.S., will have the effect of continuing the department, the Florida Highway Patrol Advisory Council, the Automobile Dealer Advisory Board, the DUI Programs Review Board, and the Medical Advisory Board.

Section 2 creates an undesignated section of law to statutorily provide the department authority to implement the \$1 credit provision associated with the *Collier* Settlement Agreement. Specifically, the new section provides any person who held a driver license, identification card or motor vehicle registration valid between June 1, 2000, and September 30, 2004, is eligible for a single \$1 credit on a new or renewed motor vehicle registration between July 1, 2009, and June 30, 2010. The revenue generated by s. 320.08046, F.S., and deposited into the General Revenue Fund shall fund the \$1 credit.

The department estimates approximately 10.4 million driver license/identification card holders and/or motor vehicle registrants would be eligible to receive the credit.

Section 3 provides this act shall take effect upon becoming law.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill redirects revenue authorized in s. 320.08046, F.S., which is currently designated to the General Revenue Fund, to fund the \$1 credit per implementation of the litigation settlement provisions of *Collier v. Dickinson* for the period July 1, 2009 through June 30, 2010. This will result in a non-recurring revenue loss to the General Revenue Fund for the credit amount. The department estimates approximately 10.4 million driver license/ID card holders and/or motor vehicle registrants would be eligible to receive the credit.

	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>
License Tax Surcharge	\$10.4	\$0	\$0

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill provides for a non-recurring reduction of \$10,400,000 to the General Revenue Fund to fund the \$1 credit per implementation of the litigation settlement provisions of *Collier v. Dickinson* for the period July 1, 2009 through June 30, 2010.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
 (Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on February 19, 2009:

The committee substitute authorizes the department to implement the \$1 credit provision associated with the *Collier* Settlement Agreement.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
