

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 Military Affairs and Domestic Security Committee

BILL: SB 2168
INTRODUCER: Senator Storms
SUBJECT: Seaport Security
DATE: March 19, 2009 REVISED: 03/26/09

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Skelton	MS	Fav/1 amendment
2.			TR	
3.			JA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:	
A. COMMITTEE SUBSTITUTE.....	<input type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input checked="" type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

I. Summary:

Senate Bill 2168 adds a requirement that FDLE provide an assessment briefing to the board members of the governing authority of each seaport and the co-chairs of the corresponding regional domestic security task force after it completes an unannounced seaport inspection. The briefing must address inspection findings, areas of concern, and recommendations for improvement.

The bill provides for the assessment of a fine of \$10,000 on the governing authority of a seaport in the event of a cancellation of an assessment briefing due to lack of board member attendance.

This bill substantially amends section 311.12 of the Florida Statutes.

II. Present Situation:

Seaport Security

Section 311.12, F.S. provides statewide minimum seaport security standards for certain Florida public seaports listed in s. 311.09, F.S..¹ Section 311.12, F.S., also requires each of the seaports to maintain a security plan to provide for a secure seaport infrastructure and promote the safety and security of residents and visitors of the state. In conjunction with the seaports' security efforts, the section requires the Department of Law Enforcement (FDLE) to conduct at least one unannounced inspection annually at each of the listed public seaports. These inspections must determine whether the seaport is meeting the minimum standards and identify necessary changes or recommended improvements.

The department may conduct additional announced or unannounced inspections or operations to test compliance with or the effectiveness of security plans and operations at each seaport. FDLE is required to provide an annual report to the Governor, the President of the Senate, the Speaker of the House, and the chief administrator of each inspected seaport indicating the observations and findings of all inspections or operations conducted along with any recommendations. Section 311.12, F.S., requires that the report include responses from each seaport's chief administrator indicating what actions, if any, have been taken or are planned to be taken in response to the recommendations, findings, and observations covered in the report.

It is FDLE's policy to provide the seaport with an inspection out-briefing to inform the port on a preliminary basis of a summary of the major findings from collected data. A draft written report is subsequently forwarded to the seaport director for review and any written comments. Written comments from the seaport director are appended to FDLE's final report. FDLE uses the collected inspection data and the seaport director's comments to formulate a determination of compliance, substantial compliance, or non-compliance by the seaport with state minimum seaport security standards.²

Section 311.122, F.S., provides a standard for seaports that create a law enforcement agency for their facilities. This standard requires that a minimum of 30 percent of the aggregate personnel of a seaport law enforcement agency must be sworn state-certified law enforcement officers with additional Maritime Transportation Security Act (MTSA) training. Section 311.12 (4) (b), F.S., provides that a waiver of this standard shall not be granted below 10 percent.

III. Effect of Proposed Changes:

Senate Bill 2168 substantially amends s. 311.12.

The bill makes permissive a prohibition against granting a waiver of the standard in s. 311.122, F.S. below 10 percent.

The bill deletes an obsolete date reference and makes minor grammatical corrections to s. 311.12 (4) (c), F.S.

¹ The seaports listed in s. 311.09(1), F.S., include the ports of Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina. The ports of Fort Pierce and Port St. Joe are currently exempted from annual inspection under the provisions of s. 311.12, F.S., based on a finding that these seaports are considered inactive for purposes of the statute.

² Department of Law Enforcement, F.S.311 Seaport Inspection Manual, 2008.

Senate Bill 2168 adds a requirement that FDLE provide an assessment briefing to the board members of the governing authority of the seaport and the co-chairs of the regional domestic security task force after it completes an unannounced seaport inspection. The briefing must address inspection findings, areas of concern, and recommendations for improvement.

The bill requires FDLE to provide assessment briefings at least once a year at a meeting of the seaport governing authority board and requires board members' attendance. The board must make transcripts and audio recordings of all proceedings during the briefings.

The bill requires that the assessment briefing be canceled if attended by fewer than three-fifths of the board members. FDLE is authorized to fine a seaport authority \$10,000 for each assessment briefing that is canceled due to lack of board member attendance. The seaport authority is directed to remove each board member who fails to attend two consecutive assessment briefings. Fines collected under this provision shall be paid to the local regional domestic security task force. All attendance records of assessment briefings must be published and announced at the next regular meeting of the board.

The bill provides an effective date of July 1, 2009.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The cost of maintaining records required by this bill is indeterminate but likely negligible.

VI. Technical Deficiencies:

The bill authorizes FDLE to levy an administrative fine of \$10,000 on the governing authority of a seaport in the event of a cancellation of an assessment briefing due to lack of board member attendance. Such fine will be paid to the regional domestic security task force.

Regional domestic security task forces lack the financial infrastructure to accept payment of the administrative fine authorized by this bill. Any such payment would have to be made to the Division of Emergency Management as the state's administering agency for domestic security funding.

A reference to the seaport authority has been inadvertently deleted by amendment # 377256.

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.)

None.

B. **Amendments:**

Barcode 377256 by Military Affairs and Domestic Security on March 26, 2009:

This amendment requires that any effort to remove a seaport governing authority board member must follow the appropriate statutory process.