

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7033 Highway Safety and Motor Vehicles  
**SPONSOR(S):** Transportation & Economic Development Appropriations Committee, Government Accountability Act Council & Nehr  
**TIED BILLS:** **IDEN./SIM. BILLS:**

DIRECTOR	REFERENCE	ACTION	ANALYST	STAFF
Orig. Comm.:	Government Accountability Act Council	15 Y, 0 N	Mitchell	Hansen
1)	Economic Development & Community Affairs Policy Council	14 Y, 0 N	Brown	Tinker
2)	Transportation & Economic Development Appropriations Committee		Rayman	Creamer
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The Government Accountability Act requires each agency and related advisory councils to be reviewed by the Legislature according to a prescribed ten-year schedule. If the Legislature does not take action, the agency will continue to be subject to an annual sunset review each year until the Legislature enacts legislation that continues, modifies, or terminates the agency. The Department of Highway Safety and Motor Vehicles (DHSMV) was scheduled to be reviewed by July 1, 2008. The Legislature adopted HB 5067 re-enacting the agency, however that legislation was subsequently vetoed by the Governor for issues unrelated to the re-enactment.

HB 7033 (bill) makes a number of changes based upon the review and recommendations that occurred during the sunset review process. The bill:

- Reenacts the DHSMV and deletes the Bureau of Motor Vehicle Inspections, an obsolete bureau of the DHSMV;
- Eliminates the DUI Programs Coordination Trust Fund;
- Permits the DHSMV to use electronic methods to title motor vehicles and vessels, and to collect and use e-mail addresses for various customer notifications; and
- Directs a transfer of the Office of Motor Carrier Compliance (OMCC) from the Department of Transportation (DOT) to the DHSMV, effective January 1, 2010.<sup>1</sup>

The bill clarifies that eight positions currently in the OMCC will be eliminated upon the transfer of that office to DHSMV on January 1, 2010. The figures in the bill represent the total savings of those eight positions for six months of year one of \$433,394 (Jan. 1, 2010, to June 30, 2010) and recurring annual savings thereafter of \$866,788.

The bill has an effective date of July 1, 2009, except as expressly provided therein.

<sup>1</sup> Three of these four items were proposals that passed the House in 2008 – 1. elimination of the DUI Programs Coordination Trust Fund, 2. use of electronic titling, and 3. transfer of the OMCC to DHSMV. HB 5067 (2008).

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### ***Overview***

Sections 11.901-11.920, F.S., the "Florida Government Accountability Act," creates an agency sunset review process to determine if a public need exists for the continuation of a state agency, its advisory committees, or its programs. The act requires each agency and related advisory councils to be reviewed by the Legislature according to a prescribed ten-year schedule. If the Legislature does not take action before the review date to reenact the agency or its advisory committees, the agency will continue to be subject to an annual sunset review until the Legislature enacts legislation relating to the agency's abolition, continuation, or reorganization.

##### ***Sunset Review Process***

The act requires the appointment of a Joint Legislative Sunset Committee to oversee the review process, obtain public input, and make recommendations to abolish, continue, or reorganize the agency under review.

Two reports are required prior to an agency's review date:

- No later than 2 years preceding the year in which an agency and its advisory committees are scheduled to be reviewed, the agency must provide the Legislature with a preliminary report detailing its programs and activities. Upon receipt of the agency's report, the sunset review committees of the Senate and House of Representatives are required to conduct independent reviews of the agency and its advisory committees. The Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General are required to assist the Senate and House of Representatives in the review process.
- No later than March 1 of the year in which an agency is scheduled to be reviewed, the sunset committees of the Senate and House of Representatives are required to provide the President of the Senate and Speaker of the House of

Representatives with 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.

## ***Recommendations***

The Joint Legislative Sunset Committee, Senate Committee on Transportation and OPPAGA have prepared various reports and memorandums regarding the sunset review of DHSMV and its programs and activities since 2007. They are summarized in bullet format below with earliest date first.

### OPPAGA - December 2007

- Retain the department.
- Entice tax collectors to provide additional driver's license services (also discussed as an option is contracting with private agents for these services).

### Senate Committee on Transportation - February 2008

- Continue the department.
- Repeal the Florida At-Risk Driver Council.<sup>2</sup>
- Consider revising the department's budget structure in order to:
  - Finance the department's services primarily through general revenue funds.
  - Implement some or the entire department's proposed budget cuts.
  - Revise the budget programs and entities to align with the department's current organization structure.
- Consider amending current statutes in order to:
  - 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.
  - Implement federal Real ID requirements.<sup>3</sup>
  - Support measures to improve customer service.
- Consider amending current statutes in order to:
  - Regularly review titling and registration fees.
  - Abolish the construction and inspection programs within the Mobile Home Compliance and Enforcement budget entity and consider transferring the remaining programs to the Department of Community Affairs. In the alternative, ensure this budget entity is self-sufficient to the maximum extent feasible.
- Abolish the auto manufacturer/dealer activities or transfer these activities to the Department of Agriculture and Consumer Services.
- Abolish 75<sup>4</sup> vacant sworn law enforcement positions in the Florida Highway Patrol and consider limiting the Patrol's functions to the State Highway System and roads of small counties.
- Analyze data centers and administrative services of all state agencies to determine whether consolidation, transfer, or reorganization of these centers and services would provide a significant cost savings.<sup>5</sup>

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<sup>2</sup> Repealed by SB 1992 (2008).

<sup>3</sup> Some of these requirements were adopted by SB 1992 (2008) such as modification of acceptable documents for the issuance of ID cards and a requirement of proof of a residence address.

<sup>4</sup> A number of FHP positions have in fact been eliminated since February 2008. The FHP currently has 131 vacant positions.

<sup>5</sup> SB 1892 (2008) consolidated data centers of several state agencies.

## Senate Committee on Transportation - September 2008.

- Retain the department.
- Repeal the obsolete Bureau of Motor Vehicle Inspection.
- Promote additional tax collector participation in providing driver's licenses and ID cards.

## Joint Legislative Sunset Committee - March 2008.

- Retain the department.
- Transfer responsibilities for the federal mobile home inspection contract back to the federal Department of Housing and Urban Development with the department continuing to investigate consumer complaints and regulate mobile home installers.
- The Sunset Committee could not agree on adoption of competing recommendations requiring tax collectors to become the exclusive agents for issuing drivers licenses.

The bill makes a number of changes relating to the DHSMV, based upon the review and recommendations that occurred during the sunset review process. The bill reenacts the DHSMV and deletes the obsolete Bureau of Motor Vehicle Inspection.<sup>6</sup> The remaining changes are broken out by topic below.

### ***DUI Programs Coordination Trust Fund***

#### Current Situation

Section 322.293, F.S., provides that a \$12 fee shall be assessed against each person who enrolls in a DUI Program. This fee is deposited into the DUI Programs Coordination Trust Fund to be used solely to fund the supervision of such programs.

#### Effect of Proposed Changes

The bill contains a number of changes to eliminate the DUI Programs Coordination Trust Fund. It amends s. 17.61, F.S., to delete the DUI Programs Coordination Trust Fund from the list of trust funds invested by the Chief Financial Officer and amends s. 215.20, F.S., to remove the DUI Programs Trust Fund from the list of funds subject to a service charge to the General Revenue Fund. Finally, it amends s. 322.293, F.S., to provide that the \$12 DUI program fee shall be deposited into the Highway Safety Operating Trust Fund.

### ***Electronic Transactions - Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration***

#### Current Situation

Chapter 319, F.S., governs vehicle title certificates issued in Florida as well as fees, liens, and related issues and specifically defines "certificate of title" as "the record that is evidence of ownership of a vehicle, whether a paper document authorized by the department or a certificate consisting of information that is stored in an electronic form in the department's database."<sup>7</sup> Section 319.40, F.S., authorizes the DHSMV to accept any application provided for in ch. 319, F.S., by "electronic or telephonic means".

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<sup>6</sup> Section 20.24(2), F.S.

<sup>7</sup> Section 319.001(1), F.S.

Section 320.95, F.S., permits the DHSMV to engage in motor vehicle license transactions by electronic or telephonic means.

Chapter 328, F.S., governs title certificates and registration of vessels in Florida. Section 328.30, F.S., authorizes the DHSMV to accept any application required under ch. 328, F.S., by “electronic or telephonic means”, relating to vessel titles. Section 328.80, F.S., similarly authorizes the department to accept electronic or telephonic applications.<sup>8</sup>

### Effect of Proposed Changes

The bill amends s. 319.40, F.S., to authorize the department to issue electronic certificates of title for vehicles and to collect e-mail addresses of vehicle owners and registrants for notification purposes related to vehicle titles.

The bill amends s. 320.95, F.S., to expressly permit the DHSMV to collect and use e-mail addresses as a method of notification relating to motor vehicle licenses.

The bill amends 328.30, F.S., to authorize the department to issue electronic certificates of title for vessels. The bill also amends s. 328.30, F.S., and s. 328.80, F.S., to permit the department to collect and use e-mail addresses as a method of notification regarding vessel titles and registration.

### ***Office of Motor Carrier Compliance - Type Two Transfer***

#### Current Situation

The primary purposes of the Office of Motor Carrier Compliance (OMCC), currently housed within the Florida Department of Transportation (DOT), are to protect the highway system’s pavement and structures from excessive damage due to overweight and oversize vehicles, and to reduce the number and severity of crashes involving commercial vehicles.<sup>9</sup> The OMCC enforces state and federal laws and agency rules that regulate the weight and size of vehicles operating on the state’s highways, and the safety of commercial motor vehicles and their drivers.

The program uses both non-sworn weight inspectors and sworn law enforcement officers to enforce vehicle weight, size, fuel tax, and registration requirements. These inspectors weigh trucks and check registration and fuel tax compliance at fixed-scale locations along major highways. The program’s law enforcement officers patrol the state’s highways and use portable scales to weigh trucks that do not pass fixed-scale stations.<sup>10</sup> There are currently 420 DOT employees dedicated to weight enforcement, of which 256 are sworn law enforcement officers and 164 are civilian weight inspectors. There are 256 vehicles, marked and unmarked, dedicated to the program.

As part of their patrol duties on state highways, the program’s law enforcement officers also enforce commercial motor vehicle safety regulations by performing safety inspections and enforcing traffic laws. The program’s safety enforcement responsibilities also include compliance reviews at carrier places of business, which are performed by specially-trained law enforcement staff.<sup>11</sup>

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<sup>8</sup> Section 328.80, F.S., actually directs the “commission” to use electronic means, however, a reviser’s note from 1999 indicates that similar legislation passed during the same session directing the “department” to use electronic means.

<sup>9</sup> Office of Program Policy Analysis and Government Accountability, *Report # 01-45*, October 2001.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

## Effect of Proposed Changes

The bill directs the OMCC to be transferred via type two transfer<sup>12</sup> to the Florida Highway Patrol (FHP) within the DHSMV, effective January 1, 2010. The OMCC's non-sworn weight inspectors and sworn law enforcement officers would be moved to DHSMV as part of the transfer. The bill clarifies that eight positions currently in the OMCC will be eliminated upon the transfer of that office to DHSMV on January 1, 2010. The figures in the bill represent the total savings of those eight positions for six months of year one of \$433,394 (Jan. 1, 2010, to June 30, 2010) and recurring annual savings thereafter of \$866,788.

The DHSMV's FHP and DOT's OMCC both patrol Florida's highways and enforce the criminal and traffic laws. The type of consolidation being considered is to move OMCC virtually intact into FHP, creating a statewide troop dedicated to commercial motor carrier enforcement. OMCC, wherever it may be located, must remain focused on the enforcement of motor carrier compliance in order to maintain current federal funding levels.

The FHP maintains forty-two field offices throughout the state. In addition to these field offices, FHP maintains a headquarters in Tallahassee and a training facility at the Pat Thomas Law Enforcement Training Academy in Havana, Florida. It is believed that efficiencies could be gained by relocating OMCC staff into existing FHP offices and eliminating lease costs associated with current OMCC offices.

Finally, the FHP is a highly visible law enforcement agency on Florida's roadways. Additional FHP-marked vehicles resulting from the proposed transfer would further increase that visibility, resulting in increased voluntary compliance with the traffic laws. In addition, over time, FHP troopers would be cross-trained to conduct motor carrier compliance inspections. The entire FHP organization may benefit from cross-training of FHP officers in federal weight and safety enforcement, potentially resulting in improved safety.

### ***Technical Changes***

The bill directs the Division of Statutory Revision, part of the Joint Legislative Management Committee, upon request to assist any substantive committees with preparing legislation to conform the Florida Statutes and any 2009 legislation to the provisions of this bill.

#### **B. SECTION DIRECTORY:**

- Section 1. Un-numbered section relating to termination of the DUI Programs Coordination Trust Fund.
- Section 2. Amends s. 17.61, F.S., relating to the DUI Programs Coordination Trust Fund.
- Section 3. Amends s. 20.24, F.S., relating to the DHSMV and the Bureau of Motor Vehicle Inspection.

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<sup>12</sup> In accordance with s. 20.06(2)(a), F.S. "[A]ny agency or department or a program, activity, or function thereof transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided by law."

- Section 4. Amends s. 215.20, F.S., relating to the DUI Programs Coordination Trust Fund.
- Section 5. Amends s. 319.40, F.S., relating to electronic motor vehicle titles.
- Section 6. Amends s. 320.95, F.S., relating to the collection and use of e-mail addresses as a notification method.
- Section 7. Amends s. 322.293, F.S., relating to the DUI Programs Coordination Trust Fund.
- Section 8. Amends s. 328.30, F.S., relating to the collection and use of e-mail addresses as a notification method.
- Section 9. Amends s. 328.80, F.S., relating to transactions by electronic or telephonic means.
- Section 10. Un-numbered section relating to a type two transfer of the Office of Motor Carrier Compliance, effective January 1, 2010.
- Section 11. Conforming change to s. 20.23, F.S., effective January 1, 2010.<sup>13</sup>
- Section 12. Conforming change to s. 110.205, F.S., effective January 1, 2010.
- Section 13. Conforming change to s. 311.12, F.S., effective January 1, 2010.
- Section 14. Conforming change to s. 316.302, F.S., effective January 1, 2010.
- Section 15. Conforming change to s. 316.3026, F.S., effective January 1, 2010.
- Section 16. Conforming change to s. 320.18, F.S., effective January 1, 2010.
- Section 17. Un-numbered section relating to conforming legislation.<sup>14</sup>
- Section 18. Provides an effective date of July 1, 2009, except as otherwise provided.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
2. Expenditures: According the DHSMV, there would be costs associated with implementation of the proposed transfer such as retrofitting vehicles, standardization of officer uniforms and handguns, personnel and training costs, facilities and equipment.

The DHSMV estimates a net savings in year one of \$370,351 and \$3,403,372 over a four-year period resulting from the transfer of the OMCC. These estimates assume eight position reductions in year one (\$433,394 savings). Other DHSMV assumptions include:

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<sup>13</sup> Sections 11-16 were added by the House bill drafting office following adoption of the bill in the Government Accountability Act Council.

<sup>14</sup> The language used in this section was recommended by the House Bill Drafting Office.

- A January 1st, 2010, implementation and savings reflect a six-month period from that date.
- Using current OMCC weapons until they are swapped out through the normal attrition and replacement process rather than purchasing new weapons at the beginning of the transition.
- Branding current OMCC vehicles with FHP decals rather than painting vehicles the black and tan of FHP vehicles.
- Using current OMCC uniforms equipped with FHP insignia rather than purchasing new FHP uniforms.

DOT estimates of costs/savings vary from those above. DOT estimates an actual cost of \$1,578,069 over a four-year period with no savings generated from the transfer.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect municipal or county governments.

2. Other:

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill directs the Division of Statutory Revision, upon request, to assist any relevant substantive committees with preparing legislation to conform the Florida Statutes and any 2009 legislation to the provisions of the bill.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

None.