

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 Governmental Oversight and Accountability Committee

BILL: CS/SB 1434

INTRODUCER: Transportation Committee and Senator Latvala

SUBJECT: Office of Motor Carrier Compliance

DATE: April 7, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	Fav/CS
2.	McKay	Roberts	GO	Pre-meeting
3.			CJ	
4.			BC	
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:

The bill transfers the Office of Motor Carrier Compliance (OMCC) from the Department of Transportation (FDOT) to the Division of the Florida Highway Patrol (FHP) within the Department of Highway Safety & Motor Vehicles (DHSMV), effective July 1, 2011. The OMCC's sworn law enforcement officers and supporting administrative staff would be moved to DHSMV as part of the transfer. Non-sworn weight inspectors and supporting administrative staff currently within OMCC will remain with FDOT as part of the FDOT's Motor Carrier Weight Inspection area of program responsibility.

Effective July 1, 2011, the bill creates a Law Enforcement Consolidation Task Force, provides for its membership, administrative support, and duties; and requires the task force to submit a specified plan. The bill also makes conforming changes.

This bill substantially amends ss. 20.23, 20.24, 110.205, 311.115, 316.302, 316.3025, 316.3026, 316.516, 316.545, 316.640, 320.18, 321.05, and 334.044 of the Florida Statutes.

This bill creates an undesignated section of law.

II. Present Situation:

The Office of Motor Carrier Compliance (OMCC) was created in 1980 by merging weight and safety enforcement functions from the Florida Highway Patrol (FHP) and the Florida Public Service Commission. Staffed by both sworn law enforcement officers and regulatory weight inspectors, OMCC assists the Department of Transportation (FDOT) in fulfilling its mission of providing a safe transportation system by performing commercial vehicle safety and weight enforcement.

The primary purposes of the OMCC, currently housed within FDOT, 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.¹ 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.² There are currently 497 FTEs within the OMCC dedicated to weight enforcement, of which 267 are sworn law enforcement officers and 178 are civilian (non-sworn) weight inspectors, and an additional 52 administrative support staff.

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.³

According to FDOT, in calendar year 2010, the OMCC weighed 21,786,099 trucks, resulting in 52,223 weight citations. OMCC personnel also completed 118,383 driver/vehicle inspection reports resulting in 23,317 vehicles and/or drivers placed out of service for serious vehicle safety defects and driver licensing or hours of service violations. A typical weight violation case requires approximately 30 minutes per case and a complete CMV inspection will require 45-90 minutes. Over 96 percent of all enforcement contacts made by OMCC personnel were directly related to interactions with CMVs, including inspections, weight enforcement, speed enforcement, etc.

In addition, OMCC officers:

- conduct compliance review audits on Florida-based carriers;

¹ Office of Program Policy Analysis and Government Accountability, *Report # 01-45*, October 2001.

² *Id.*

³ *Id.*

- conduct post-crash CMV inspections for vehicles involved in fatal and serious injury crashes at the request of the FHP and local law enforcement agencies; and
- conduct inspections of hazardous materials shipments on our roadways and deepwater ports.

The OMCC serves as Florida’s primary law enforcement agency for radiological and nuclear detection, in partnership with local, state and federal agencies.

OMCC Funding

According to FDOT, the operational cost of the OMCC reflects less than 1% of the FDOT annual budget. Annual funding is provided by the State Transportation Trust Fund (STTF) and by the USDOT Federal Motor Carrier Safety Administration (FMCSA) grant program(s). Of the total OMCC FY 2010-11 budget (\$39,589,127), \$8,389,889 was provided by the FMCSA grant(s)⁴ and \$647,359 was received from the Department of Homeland Security.⁵

III. Effect of Proposed Changes:

The bill provides for the transfer of specified components of the OMCC to the Division of FHP within the DHSMV, effective July 1, 2011. The OMCC’s sworn law enforcement officers and supporting administrative staff would be moved to DHSMV as part of the transfer. Non-sworn weight inspectors and supporting administrative staff currently within OMCC will remain with FDOT as part of the FDOT’s Motor Carrier Weight Inspection area of program responsibility.

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’s sworn law enforcement officers and supporting administrative staff 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 bill amends numerous sections of law to conform provisions relating to the transfer of OMCC to the division of FHP within the DHSMV.

The bill also creates the Law Enforcement Consolidation Task Force with the following members:

- the Executive Director of DHSMV;
- the Executive Director Department of Law Enforcement;
- a representative of the Office of Attorney General;
- a representative from the Department of Agriculture and Consumer Service;

⁴ 2010 Grants		
MCSAP/Incentive Grant -	\$8,196,889	(Core CMV Safety Grant funded since FY 95/96)
New Entrant	\$ 122,000	(Outreach and education for new intrastate carriers)
Pre-TACT	<u>\$ 71,000</u>	(New grant for the development of an enforcement program directed at aggressive drivers Targeting Aggressive Cars and Trucks)
Total	\$8,389,889	

⁵ Department of Transportation, *Agency Bill Analysis: SB 1434* (on file with the Senate Transportation Committee).

- the Colonel of the FHP;
- the Colonel of the Division of Law Enforcement in the Fish and Wildlife Commission;
- a representative from the Florida Sheriffs Association; and
- a representative from the Florida Police Chiefs Association.

DHSMV is directed to provide administrative assistance to the task force, not including travel expenses, which are to be paid by the agency the member represents.

The task force is directed to evaluate the duplication of law enforcement functions throughout state government and identify functions that are appropriate for possible consolidation, as well as administrative functions, including, without limitation, accreditation, training, legal representation, vehicle fleets, aircraft, civilian support staffing, information technology, geographic regions, and districts or troops currently in use. The task force is also required to submit recommendations and a plan to consolidate state law enforcement functions to the President of the Senate and the Speaker of the House of Representative by February 1, 2012. The plan must include recommendations on the methodology to be used in creating a consolidated state law enforcement entity by June 30, 2013. The task force is set to expire on June 30, 2012.

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 DHSMV estimates a net savings in year one of \$1,296,186, \$1,877,089 in year two and \$1,879,371 in year three resulting from the transfer of the OMCC.

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 March 22, 2011:

- Eliminates the transfer of the OMCC by a type-two transfer⁶ to the Division of FHP; however, the OMCC, which will consist of sworn law enforcement and supporting administrative staff, is transferred to the Division of FHP within the DHSMV.
- Creates a Motor Carrier Weight Inspection area of program responsibility with FDOT, which replaces the motor carrier compliance area which is transferred to DHSMV.
- Conforms provisions relating to the transfer of OMCC to the division of FHP within the DHSMV.
- Adds a representative from the Florida Sheriffs Association and a representative from the Florida Police Chiefs Association to the membership of the Law Enforcement Consolidation Task Force.

B. Amendments:

None.

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

⁶ 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.”