

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 365 Concealed Weapons or Firearms Licenses

SPONSOR(S): Community and Military Affairs Subcommittee, Patronis and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1646

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	13 Y, 2 N, As CS	Shuler	Hoagland
2) Criminal Justice Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Concealed weapons license holders are prohibited from carrying concealed weapons in numerous places, including jails, schools, bars, and airport passenger terminals, as well as “any meeting of the governing body of a county, public school district, municipality, or special district [or] any meeting of the Legislature or a committee thereof.” Under current law, county commissioners, school board members, and county constitutional officers would likely not be permitted to carry concealed weapons into meetings of the governing body of which they are members. Judges are afforded limited exceptions to the concealed weapons license requirements and prohibitions, while law enforcement officers are afforded quite broad exceptions to the concealed weapons provisions.

This bill exempts a state legislator, county commissioner, school board member, state attorney, public defender, or county constitutional officer who currently holds a concealed weapons license from the prohibition against carrying concealed weapons in a meeting of the governing body of which he or she is a member.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 790.06, F.S., contains the provisions relating to the licensure to carry concealed weapons or firearms. For the purposes of the section, concealed weapons or firearms are defined to include a handgun, electronic weapon or device, tear gas gun, knife, or billie, but does not include a machine gun. Individuals meeting the qualifications and application requirements listed in the section may carry a concealed weapon, but must carry the license and proper identification when in possession of a concealed weapon.

The locations where concealed weapons or firearms may not be carried are listed in subsection 790.06(12), F.S. Current law prohibits concealed carry in numerous places, including jails, schools, bars, and airport passenger terminals, as well as “any meeting of the governing body of a county, public school district, municipality, or special district [or] any meeting of the Legislature or a committee thereof.”¹ An exception for a person to carry a concealed weapon at his or her “place of business” is provided by statute.² The attorney general has interpreted the language prohibiting carrying of concealed weapons into meetings of a governing body to be controlling over the “place of business” exception.³ Thus, under current law, elected officials, including state legislators, county commissioners, school board members, state attorneys, public defenders, and county constitutional officers, would likely not be permitted to carry concealed weapons into meetings of the governing body of which they are members.⁴

Judges are afforded limited exceptions to the concealed weapons license requirements and prohibitions.⁵ A courtroom is listed as one of the places where concealed carry license holders may not carry concealed weapons, yet the subsection also states “that nothing in this section would preclude a judge from determining who will carry a concealed weapon in his or her courtroom.”⁶ Additionally, the requirements for judges to receive a concealed carry license are less extensive than the requirements for other applicants. Judges must only demonstrate competence with a firearm pursuant to statute, while the other requirements are waived.⁷

Chapter 790, F.S., also includes exceptions for law enforcement officers relating to concealed weapons. Officers holding active certification from the Criminal Justice Standards and Training Commission are exempt from the concealed carry licensure requirements, allowing them to carry as private citizens without a license.⁸ Those officers wishing to receive a concealed carry license are exempt from the background investigation and background investigation fees, but must pay license fees.⁹ Officers are also exempt from fees and background investigation for one year following the date of retirement.¹⁰ Furthermore, officers may carry concealed weapons during off-duty hours at the discretion of their superior officers.¹¹

Under current law, law enforcement officers are provided with the broadest exceptions to the statutory provisions relating to the concealed carry of weapons. Judges are allowed less broad exceptions than

¹ S. 790.06(12), F.S.

² S. 790.25(3)(n).

³ Op. Att’y Gen. Fla. 2009-24 (2009).

⁴ *See id.*

⁵ Ss. 790.06(12), 790.16, F.S.

⁶ S. 790.06(12), F.S.

⁷ S. 790.061, F.S. Section 790.06(2)(h), F.S. lists the methods by which an applicant may demonstrate competence with a firearm.

⁸ Ss. 790.06(5)(b), 790.052(1), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ S. 790.052(1), F.S.

law enforcement officers. Judges must still apply for licenses, though with less stringent requirements than other applicants, and the only location in which they are allowed the discretion to carry concealed weapons is their own courtroom.

Effect of the Bill

This bill amends section 790.06(12), F.S., to exempt a state legislator, county commissioner, school board member, state attorney, public defender, or county constitutional officer from the prohibition against carrying concealed weapons in a meeting of the governing body of which he or she is a member. This exemption would apply to those officials who currently hold a concealed weapons license. Though this bill does not alter the requirements for obtaining a concealed carry license, the breadth of the exception for the officials covered by this bill would otherwise be comparable to the exception for judges to carry concealed weapons in their courtrooms.

B. SECTION DIRECTORY:

Section 1: Amends s. 790.06, F.S., relating to concealed carry of weapons or firearms.

Section 2: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2011, the Community and Military Affairs Subcommittee adopted one amendment. The amendment:

- Added state legislators, state attorneys, and public defenders to the list of individuals to whom the exemption applies.
- Clarified the extent of the exemption under the bill.

The bill was then reported favorably.