

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1383 Fish and Wildlife Conservation Commission

SPONSOR(S): Appropriations Committee, Agriculture & Natural Resources Subcommittee, Glorioso

TIED BILLS: None **IDEN./SIM. BILLS:** CS/HB 1782

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	15 Y, 0 N, As CS	Deslatte	Blalock
2) Appropriations Committee	19 Y, 0 N, As CS	Massengale	Leznoff
3) State Affairs Committee			

SUMMARY ANALYSIS

Pursuant to chapter 2011-66, Laws of Florida, an Environmental Unit Sub-Team of a Law Enforcement Consolidation Task Force was established to conduct a review of the conservation law enforcement activities and assets of the Department of Agriculture and Consumer Services (DACS), the Department of Environmental Protection (DEP), and the Florida Fish and Wildlife Conservation Commission (FWCC), to determine if any duplication of law enforcement functions exist between the agencies. The Environmental Unit Sub-Team determined the patrol of state-owned and managed lands provided by the FWCC, DEP, and DACS has elements that are duplicative, and, in turn, has exacerbated a manpower shortage for the agencies. A list of recommendations was presented to the President of the Senate and the Speaker of the House of Representatives, which included integrating the DEP Division of Law Enforcement and DACS Office of Agricultural Law Enforcement officers assigned to the conservation and recreation lands (CARL) program patrol and the investigator responsible for commercial aquaculture violations into the FWCC Division of Law Enforcement.

The bill transfers and reassigns the functions and responsibilities of the DEP's Division of Law Enforcement, excluding the Bureau of Emergency Response, to the FWCC Division of Law Enforcement. The bill also transfers and reassigns the functions and responsibilities of sworn positions funded by the CARL program assigned to the Florida Forest Service and the investigator responsible for the enforcement of aquaculture violations within DACS to the FWCC Division of Law Enforcement. The bill reassigns the Bureau of Emergency Response to the Secretary of the DEP as the Office of Emergency Response, created within the DEP.

The bill also provides for support positions to be transferred to the FWCC, and requires a memorandum of agreement between FWCC and the DEP and DACS detailing the responsibilities of the FWCC to the DEP and DACS. In addition, the bill provides for transition advisory working groups to be created during the 2012-13 fiscal year.

The bill specifies that any employee transferred from the DEP and DACS to fill positions transferred to the FWCC must retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

The bill creates part IV, Miscellaneous Provision, within chapter 258, F.S., and creates s. 258.601, F.S., within the new part IV, to provide that any prohibited activities under the state parks and preserves chapter 258, F.S., will be enforced by the DEP and the Division of Law Enforcement within the FWCC and its officers.

The bill has a significant positive fiscal impact on state expenditures as a result of staggered implementation of reclassifying supervisory and managerial positions to officer positions. The bill may reduce local government expenditures as a result of decreased demand for local law enforcement (see Fiscal Analysis and Economic Impact section).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Pursuant to Chapter 2011-66, a Environmental Unit Sub-Team of a Law Enforcement Consolidation Task Force was established to conduct a review of the conservation law enforcement activities and assets of the Department of Agriculture and Consumer Services (DACCS), the Department of Environmental Protection (DEP), and the Fish and Wildlife Conservation Commission (FWCC) to evaluate if any duplication of law enforcement functions exist between the agencies.¹

The Environmental Unit Sub-Team identified the following findings:

- All three agencies have responsibility to provide law enforcement patrol, investigative, and forensic services on state-managed lands, which are frequently located within close proximity to each other.
- The enforcement functions for each entity are established by the Legislature.
- Investigative activities of the three agencies are similar in scope and approach.
- The three Bureaus within the DEP Division of Law Enforcement (Park police, Environmental Investigations, and Emergency Response) are interdependent with each other resulting in value-added services that are not present when separated.
- Integration of DEP officers and DACCS Conservation and Recreational Land (CARL) and Aquaculture officers in the FWC Division of Law Enforcement will improve response time, increase personnel available for patrol coverage across conservation lands and state waters, and decrease the burden on local law enforcement agencies.
- Consolidation will result in a streamlined agency with approximately 10 percent of sworn supervisory positions being reassigned to field positions leading to increased response time.
- In 2008, the Office of Program Policy Analysis and Government Accountability (OPPAGA) provided the Legislature with four policy options related to environmental law enforcement. The third option was the centralization of environmental law enforcement under one state agency that currently has this function. The joint agency recommendation is a variation of the third option, capturing all of the advantages while minimizing adverse impacts.

The Environmental Unit Sub-Team recommended the following:

- Integration of the DEP Division of Law Enforcement, in its entirety, into the FWCC Division of Law Enforcement (147 positions and additional support positions).
- Integration of DACCS Office of Agricultural Law Enforcement officers assigned to CARL Patrol and the investigator responsible for commercial aquaculture violations into the FWCC Division of Law Enforcement (15 positions).
- Enact statutory and administrative code changes where appropriate to integrate the functions.

Department of Environmental Protection Division of Law Enforcement

The DEP's Division of Law Enforcement is Florida's oldest state law enforcement agency, dating back to 1913 when the Legislature created the shellfish commission to supervise the newly emerging commercial fishing industry. The division oversees the following bureaus:

- **Emergency Response**—The Division of Law Enforcement's Bureau of Emergency Response (BER) responds to environmental pollution threats in every form. Responding to incidents

¹ *Integration of Florida's Environmental Law Enforcement Functions increases Efficiency and Enhances Patrol Capability and Response Time*, October 11, 2011. Document on file with staff.

involving petroleum spills caused by vehicle accidents to chemical plant explosions to coastal oil spills, BER provides technical and on-site assistance to ensure threats to the environment and human safety are quickly and effectively addressed. In addition, BER works with local public safety officials and emergency response contractors to minimize threats to the environment. BER offices are located throughout the state, with headquarters in Tallahassee.²

- **Criminal Investigations**—Special agents from the Criminal Investigations Bureau are sworn state law enforcement investigators, with full powers of arrest in Florida and its jurisdictional waters. Special agents investigate crimes and violations that generally have a negative impact on Florida's environment, including the improper storage, transport, or disposal of hazardous waste; destruction or illegal filling of wetlands; or the burying or burning of prohibited materials. Fraud, forgery, conspiracy, and organized crime are some of the traditional crimes that can be associated with environmental violations. These specialized criminal investigations are often long-term, complex and are built upon the expert assessment and testimony of the DEP regulatory and scientific professionals.³
- **Park Police**—The Division of Law Enforcement's Bureau of Park Police comprises state law enforcement officers with full powers of arrest and who patrol more than 800,000 acres of Florida's state-owned lands, providing law enforcement and public service within state parks, preserves, recreational areas, as well as greenways and trails. The officers also patrol more than 4 million acres of submerged coastal and aquatic managed areas that include 41 aquatic preserves, three national estuarine research reserves, and the Florida Keys National Marine Sanctuary. Officers are called on to respond to hurricanes, civil disorder, or other threatening conditions that may endanger life, property, Florida's natural resources and also provide assistance with search and rescue missions.⁴
- **Office of Training and Professional Standards**—The Division of Law Enforcement's Office of Training and Professional Standards provides training courses for DEP's 138 officers. The Office of Training and Professional Standards works closely with the Florida Department of Law Enforcement's (FDLE) Division of Law Enforcement Professionalism, the Florida Criminal Justice Standards and Training Commission and other Florida law enforcement training centers to provide consistent and current law enforcement information and training to DEP law enforcement officers.⁵

Department of Agriculture and Consumer Services

The Bureau of Investigative Services (BIS) is one of three designated bureaus in the Office of Agricultural Law Enforcement, responsible for the initiation and investigation of matters over which the department has jurisdiction and on property owned, managed or controlled by DACS. The bureau responsibilities include the enforcement of criminal and civil violations occurring within state forests or any crimes involving agriculture such as farms or farm equipment, animals, livestock, poultry, and any crimes involving horticulture, aquaculture, or citrus products. The BIS is an active member in the joint response team comprised of the Department of Health and the DEP, which is responsible for the investigation of crimes relating to bioterrorism statewide. The BIS is also responsible for enforcement of laws governing consumer issues including illegal telemarketing operations, sale of business opportunities, solicitations of contributions, sellers of travel, motor vehicle repair fraud, health studios, dance studios, pawnshops, and moving and storage companies. In addition to these duties, they are also engaged in a cooperative partnership with all federal, state, and local agencies in all 67 counties, providing investigative support in all matters over which the DACS has jurisdiction. The BIS is also actively involved in issues relating to domestic security and actively participates in all seven regional domestic security task forces statewide. The bureau continues to conduct threat assessments of

² DEP's Bureau of Emergency Response website, <http://www.dep.state.fl.us/law/ber/default.htm>

³ DEP's Criminal Investigations Bureau website, <http://www.dep.state.fl.us/law/bei/default.htm>

⁴ DEP's Bureau of Park Police website, <http://www.dep.state.fl.us/law/park/default.htm>

⁵ DEP's Office of Training and Professional Standards website, <http://www.dep.state.fl.us/law/training/default.htm>

regulated entities affiliated with fertilizer, pesticide, food, petroleum production and distribution points, as well as investigating theft, shrinkage and suspicious activities regarding these materials.⁶

Florida Fish and Wildlife Conservation Commission Law Enforcement

FWCC officers provide protection to residents and visitors who enjoy Florida's natural resources, while enforcing resource protection and boating safety laws in the woods and on the waters of the state in keeping with the division's core missions. FWCC officers have full police powers and statewide jurisdiction. They patrol rural, wilderness, inshore and offshore areas, and are often the sole law enforcement presence in many remote parts of the state. The Division of Law Enforcement has cooperative agreements with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. Officers are also cross-deputized to enforce federal marine fisheries and wildlife laws, thus ensuring state and federal consistency in resource-protection efforts. The Division of Law Enforcement is divided into the following sections:

- **Operations**—The Operations section's six regions throughout the state are responsible for uniformed patrol and investigative law enforcement services of the FWCC's 700-plus officer workforce. The officers and investigators protect fish, wildlife and the citizens of Florida and provide boating safety patrols. Investigations are able to conduct both overt (uniform) and covert (plainclothes) investigations. They allow the FWCC to target hard-core commercial violators by conducting long-term undercover investigations. Investigators are also responsible for inspecting personal and commercial native and exotic wildlife facilities, as well as investigating hunting and boating accidents. This section also provides statewide coordination of all aviation, offshore vessel, K-9 and Special Operations Group activities. Aviation assets play a vital role in the agency's effort to enforce conservation and boating laws, protect endangered and threatened species and safeguard outdoor users. The division's offshore patrol vessels concentrate on offshore fisheries and protected marine areas, as well as public safety. The K-9 teams are specially trained in tracking and wildlife detection. The K-9s receive no aggression training and are very "user-friendly." In addition to their law enforcement functions, they have proved to be a great community-oriented policing relations tool.
- **Law Enforcement Support**
 - *Boating, Waterways and Program Coordination*—This section's employees manage state waterways and their markers and signs to protect boaters and wildlife. They coordinate the removal of derelict vessels and the development of boating infrastructure. They use many methods to promote boating safety, from education and outreach to investigation and analysis of boating accident data.
 - *Field Services*—This section provides officer support with radio technology and systems engineering; fleet management; research, testing and acquisition of new computer and telecommunications technology; and arrest/warning citation and disposition data management. They maintain the Computer Aided Dispatch (CAD) system, which enhances officer safety and efficiency.
 - *Training*—This section provides professional basic recruit and advanced training and career development programs to officers statewide. They train FWCC officers in the aspects of non-traditional policing, as well as ensuring basic law enforcement standards are met and maintained.
- **Officers' Authority**—Sworn personnel are fully constituted police officers as provided under s. 379.3311, F.S. This gives them the authority to enforce all laws of the state, not just those relating to resource enforcement. The officers are also cross-deputized to enforce federal fisheries and wildlife laws.

⁶ DACS Bureau of Investigative Services website, <http://www.fl-aglaw.com/bis/bis.html>

- **Officers' Responsibilities**

- Provide protection and enforce laws relating to all wild animal and aquatic resources of the state. This includes game, non-game, furbearers, threatened and endangered wildlife and fish, and marine mammals; encompassing approximately 672 species of wildlife, 208 species of freshwater fish and over 500 saltwater fish species. In doing so, officers patrol more than 37 million acres of public and private land, 8,246 miles of tidal coastline, 12,000 miles of rivers and streams, 3 million acres of lakes and ponds, and 11,000 miles of canals.
- Provide boating safety enforcement on the state's waters to ensure the safe use of our resources. Includes enforcing boating under the influence laws, as well as laws relating to the safe and prudent operation of watercraft, investigating boating accidents, and search and rescue missions.
- Provide general law enforcement protection to the human resources of the state. One aspect of this is providing general law enforcement patrol in rural, semi-wilderness, wilderness, and offshore areas where no other law enforcement agencies routinely patrol. Officers also respond to a variety of emergencies including natural disasters, civil disturbances, and search and rescue missions. These include such diverse phenomena as hurricanes, riots, wildfires, floods, and providing protection for elected officials (governors and presidents).

Effect of Proposed Changes

Section1—Transferring Law Enforcement from DEP to FWCC.

The bill transfers all powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the DEP Division of Law Enforcement, excluding the Bureau of Emergency Response, by a type two transfer,⁷ to the Division of Law Enforcement within the FWCC. The bill also provides that the Bureau of Emergency Response is reassigned to the Secretary of the DEP, as the new Office of Emergency Response, created within the DEP.

The Secretary of the DEP must transfer to the FWCC the number of administrative, auditing, inspector general, attorney, and operational support positions, including any related powers, duties, functions, property, and funding, proportionate to the number of Division of Law Enforcement full-time equivalent and other personal services positions being transferred from the DEP to the FWCC. The DEP and FWCC must develop a memorandum of agreement detailing the responsibilities of the FWCC to the DEP, and must include, at a minimum, the following:

- Support and response for oil spills, hazardous spills, and natural disasters.
- Law enforcement patrol and investigative services for all state-owned lands managed by the DEP.
- Law enforcement services, including investigative services for all criminal law violations.
- Enforcement services for all civil violations of all DEP administrative rules related to the following programs:
 - Division of Recreation and Parks.
 - Office of Coastal and Aquatic Managed Areas.
 - Office of Greenways and Trails.

⁷ Section 20.06(2), F.S., defines a type two transfer as merging into another agency or department of an existing agency or department or a program, activity, or function or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished. Any agency transferred by a type two transfer has all its statutory powers, duties, and functions. Unless provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

- Current and future funding for positions and property being transferred from the DEP to the FWCC that is funded through any trust fund.

Section 2—Transferring Sworn Positions from DACS to FWCC.

The bill transfers all powers, duties, functions, records, offices, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to sworn positions funded by the Conservation and Recreation Lands (CARL) Program and assigned to the Florida Forest Service within the DACS as of July 1, 2011, and the investigator responsible for the enforcement of aquaculture violations at DACS as of July 1, 2012, by a type two transfer to the Division of Law Enforcement within the FWCC.

DACS and the FWCC must develop a memorandum of agreement detailing the responsibilities between the FWCC and the DACS and must include, at a minimum, the following:

- Law enforcement patrol and investigative services for all state-owned forests managed by DACS.
- Current and future funding for positions and property assigned to the Conservation and Recreation Lands Program that are transferred from DACS to the FWCC.

Section 3—Creating Transition Advisory Groups.

The bill creates a transition advisory working group. The DEP and the FWCC are required to each appoint three staff members to the working group to review and determine the following:

- The appropriate proportionate number of administrative, auditing, inspector general attorney, and operational support positions and their related funding levels and sources and assigned property to be transferred from the Office of General Counsel, Office of Inspector General, and Division of Administrative Services or other relevant offices or divisions within the DEP to the FWCC.
- The development of a recommended plan addressing the transfer or shared use of buildings, regional offices, and other facilities used or owned by the DEP.
- Any operating budget adjustments as necessary to implement the requirements of this act. Any adjustments made to the operating budgets of the DEP and FWCC must be made in consultation with the appropriate substantive and fiscal committees of the Senate and the House of Representatives. Revisions to the approved operating budgets for the 2012-2013 fiscal year that are necessary to reflect the organizational changes made by this act must be implemented pursuant to s. 216.292(4)(d), F.S., and subject to s. 216.177, F.S. Any subsequent adjustments that are deemed necessary by the DEP or FWCC and approved by the Executive Office of the Governor are authorized and subject to s. 216.177, F.S. The appropriate substantive committees of the Senate and House of Representatives will be notified of the proposed revisions.

The bill specifies that the Secretary of the DEP, the Commissioner of DACS, and the Executive Director of FWCC must each appoint two staff members to a transition advisory working group to identify rules of the DEP, the Board of Trustees of the Internal Improvement Trust Fund (BOT), DACS, and the FWCC that need to be amended to reflect the changes made by this bill.

Section 4—Assigning Powers and Duties for Enforcement of Laws and Rules of the DEP and DACS to the FWCC.

The bill assigns to the FWCC all powers, duties, responsibilities, functions, positions, and property necessary for enforcement of the laws and rules governing:

- Management, protection, conservation, improvement, and expansion of the state-owned lands managed by the DEP, including state parks, coastal and aquatic managed areas, and greenways and trails.

- Conservation and recreation lands and commercial aquaculture managed by DACS.

The bill specifies that FWCC law enforcement officers are given full power to investigate and arrest for any violation of the rules of DACS, the DEP, and the Board of Trustees of the Internal Improvement Trust Fund.

Section 5—Specifying the Retention and Transfer of Accrued Leave.

The bill specifies that any employee transferred from the DEP and DACS to fill positions transferred to the FWCC must retain and transfer any accrued annual leave, sick leave, and regular and special compensatory leave balances.

Section 6—Specifying the Powers and Duties of the FWCC Relating to Parks and Preserves and Wild and Scenic Rivers.

The bill creates part IV, Miscellaneous Provision, within chapter 258, F.S., and creates s. 258.601, F.S., within the new part IV, to provide that any prohibited activities under the state parks and preserves chapter, chapter 258, F.S., will be enforced by the DEP and the Division of Law Enforcement within the FWCC and its officers.

Section 7—Adding a Special Office within the DEP to be Headed by Managers Appointed by the Secretary of the DEP.

The bill adds the Office of Emergency Management to the list of established offices within the DEP

Sections 8-31—Providing conforming provisions to changes made by the bill

Section 32—Providing an effective date of July, 1, 2012.

B. SECTION DIRECTORY:

Section 1. Transferring and reassigning functions and responsibilities of the Division of Law Enforcement, excluding the Bureau of Emergency Response, within the DEP to the Division of Law Enforcement within the FWCC; reassigning the Bureau of Emergency Response within the DEP to the Secretary of DEP as the Office of Emergency Response; providing for the transfer of additional positions to the FWCC; providing for a memorandum of agreement between the DEP and the FWCC regarding the responsibilities of the FWCC to the DEP.

Section 2. Transferring and reassigning functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program and assigned to the Florida Forest Service with DACS and the investigator responsible for the enforcement of aquaculture violations at DACS to the Division of Law Enforcement within the FWCC; providing for a memorandum of agreement between DACS and the FWCC regarding the responsibilities between the FWCC and DACS.

Section 3. Creating transition advisory working groups.

Section 4. Assigning powers, duties, responsibilities, and functions for enforcement of the laws and rules governing certain lands managed by the DEP and certain lands and aquaculture managed by DACS to the FWCC; conferring full power to the law enforcement officers of the FWCC to investigate and arrest for violations of rules of DACS, the DEP, and the Board of Trustees of the Internal Improvement Trust Fund.

Section 5. Providing for the retention and transfer of specified benefits for employees that are transferred from the DEP and DACS to fill positions transferred to the FWCC.

Section 6. Creating s. 258.601, F.S., specifying powers and duties of the FWCC relating to the enforcement of prohibited activities under chapter 258, F.S.

Section 7. Amending s. 20.255, F.S., adding the Office of Emergency Management to the list of established offices within the DEP.

Sections 8-31. Conforming provisions to changes made by the act.

Section 32. Providing an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Salaries/Ben. Reclass	(\$346,321)	(\$440,202)	(\$623,884)	(\$909,426)	(\$1,320,002)	(\$1,330,111)
Expense						
Equipment	\$138,577					
IT	\$90,425	\$37,925	\$37,925	\$37,925	\$37,925	\$37,925
Training	\$81,704					
Total Expense	\$310,706	\$37,925	\$37,925	\$37,925	\$37,925	\$37,925
Total Expenditures	(\$35,615)	(\$402,277)	(\$585,959)	(\$871,501)	(\$1,282,077)	(\$1,292,186)

According to the FWCC, there will be a cost savings in expenditures as a result of a staggered implementation of eliminating duplicative management positions (e.g., division directors, training section/bureau leaders, etc.) and support staff while establishing additional patrol and first response capacity, that is, position reclassification as soon as positions are vacated and re-filled. However, expenditures do not include leave payouts.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

According to the FWCC, the consolidation should decrease demands on local law enforcement to respond to calls for service on state-owned lands because of stronger state officer presence available to meet public safety needs.

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:

The bill transfers all administrative authority and rules relating to the Division of Law Enforcement within the DEP, excluding the Bureau of Emergency Response, and relating to sworn positions funded by the Conservation and Recreation Lands Program and assigned to the Florida Forest Service within DACS as of July 1, 2011, to the Division of Law Enforcement within the FWCC.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 15, 2012, the Appropriations Committee amended and passed CS/HB 1383 as a committee substitute. The CS removed the authorization for salary parity and other pay adjustments.

On January 31, 2012, the Agriculture & Natural Resources Subcommittee amended and passed HB 1383 as a committee substitute (CS). The CS specifies that the Bureau of Emergency Response will be reassigned to the Secretary of the DEP, as a new Office of Emergency Response, created within the DEP. The CS specifies that the Secretary of the DEP, Commissioner of DACS, and the Executive Director of FWCC must each appoint two staff members each to a transition advisory working group to identify rules of the DEP, the BOT, DACS, and the FWCC that need to be amended to reflect the changes made by this bill. Lastly, the CS specified that any prohibited activities under the state parks and preserves chapter will be enforced by the DEP and the Division of Law Enforcement within the FWCC and its officers.