

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 Environmental Preservation and Conservation Committee

BILL: CS/SB 1782

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Latvala

SUBJECT: Fish and Wildlife Conservation Commission

DATE: January 31, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.			AG	
3.			BC	
4.				
5.				
6.				

I. Summary:

The Committee Substitute (CS) transfers and reassigns functions and responsibilities of the Division of Law Enforcement, excluding the Bureau of Emergency Response, within the Department of Environmental Protection (DEP) to the Division of Law Enforcement (DLE) within the Fish and Wildlife Conservation Commission (FWC). The CS provides for the transfer of additional positions to FWC if needed. The CS provides for a memorandum of agreement between DEP and FWC regarding the responsibilities of the FWC to DEP. The CS also transfers and reassigns functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program (CARL) and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services (DACS) and the investigator responsible for the enforcement of aquaculture violations in DACS to the DLE within FWC.

The CS provides for transition of advisory working groups, assigning powers, duties, responsibilities, and functions for the enforcement of the laws and rules governing certain lands managed to the DEP and certain lands and aquaculture managed by DACS to FWC. The CS confers the full power to the law enforcement officers of the FWC to investigate and arrest for violations of rules of the DEP and DACS to fill positions transferred to FWC.

The CS amends ss. 20.255, 258.008, 258.501, 282.709, 316.003, 316.2397, 316.640, 375.041, 376.065, 376.071, 376.16, 376.3071, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.413, 784.07, 843.08, 870.04, and 932.7055, of the F.S.

The CS creates s. 258.601, F.S.

II. Present Situation:

Senate Bill 2160, passed in 2011, established the Law Enforcement Consolidation Task Force, to conduct a review of the conservation law enforcement activities and assets of DACS, DEP, and FWC, and to evaluate if any duplication of law enforcement functions exists between the agencies. This taskforce was named the Environmental Unit Sub-Team. The team determined that the patrols of state-owned and managed lands provided by the FWC, DEP, and DACS (in particular the CARL officer positions and Aquaculture positions) have elements that are duplicative and, in turn, have exacerbated a manpower shortage for the agencies. The duplication of functions is most notable in the existence of three separate management and support structures for the sole purpose of providing law enforcement patrol to all state-owned/managed lands and is most apparent when comparing FWC and DEP. The identified DACS positions, on the other hand, do not necessarily have a duplicative structure, but rather DACS provides duplicative management/support services for its officers at the expense of attending to the agency's primary duties and responsibilities. The DACS management support staff provides something that is already provided by both FWC and DEP while diminishing to some degree the provision of those services to DACS's core functions. Consolidation of these management structures and functions into the existing structure at FWC could eliminate this duplication.¹

The Environmental Unit Sub-Team has also identified inefficiency with the current dispersal of patrol responsibilities among the three agencies, which leads to the appearance or even public perception of duplication of services. The inefficiency arises from having three different agencies providing separate law enforcement services based on the pretense, for law enforcement purposes, of state-owned/managed lands being divided into different types of properties (i.e., wildlife management areas, wildlife and environmental management areas, state parks, greenways and trails, coastal and aquatic managed areas, and state forests). Due to this, there may be an FWC officer patrolling a management area adjacent to a state park that is being patrolled by a DEP officer that is also adjacent to a state forest being patrolled by a DACS CARL officer. While state lands are managed differently based on their designated use, conservation law enforcement strategies remain essentially the same, independent of the prevailing land management approach. Consolidation of these artificial distinctions between all state-owned/managed lands as it relates to law enforcement services would allow a more efficient use of rank and file officers and provide a welcome opportunity to establish law enforcement coverage in areas of the state that have historically received little or no patrol due to staffing issues. The responsibilities and activities of these three agencies are closely aligned and similar enough in scope so that significant efficiencies in the delivery of law enforcement services as well as cost savings can be realized by consolidating the functions as discussed below.²

Findings of the Task Force

- 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.

¹ Recommendations for the Law Enforcement Consolidation task Force, by Colonel Jim Brown, Division Director, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, October 11, 2011.

² *Id.*

- 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 (DLE) (Park Police, Environmental Investigations, and Emergency Response) are interdependent resulting in value-added services that are not present when separated.
- Integration of DEP officers and DACS CARL and Aquaculture officers in the FWC DLE 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.

Recommendations

The Environmental Unit Sub-Team recommends the following:

- Integration of the DEP Division of Law Enforcement, in its entirety, into the FWC Division of Law Enforcement (175.5 positions and additional support positions).
- Integration of the DACS Office of Agricultural Law Enforcement officers assigned to CARL Patrol and the investigator responsible for commercial aquaculture violations into the FWC Division of Law Enforcement (15 positions).
- Enact statutory and administrative code changes where appropriate to integrate the functions.

Conclusion

Consolidating the three agencies will result in a highly effective, more efficient state law enforcement division with complete jurisdiction over the natural and historic resources and publicly-owned and managed lands and waters of the state having enhanced patrol capability response presence.

Department of Environmental Protection (DEP) 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 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.

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.

Park Police- The Division of Law Enforcement's Bureau of Park Police is comprised of 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 four 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.

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.

Department of Agriculture and Consumer Services (DACS)

Florida Forest Service- The Florida Forest Service mission is to protect and manage the forest resources of Florida, ensuring that they are available for future generations. Wildfire prevention and suppression are key components in their efforts to protect homeowners from the threat of damage in a natural, fire-dependent environment.

In addition to managing over one million acres of State Forests for multiple public uses including timber, recreation and wildlife habitat, the Forest Service services to landowners throughout the state with technical information and grant programs.

The Forest Service's forestry programs are implemented by its Field Operations staff within 15 field units across the state. Field personnel and equipment provide a more responsive and comprehensive approach to land management and wildfire control statewide.

Florida Fish and Wildlife Conservation Commission (FWCC) 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 and 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.

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 over 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 in order to ensure the safe usage 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).

Type Two Transfer

Section 20.06(2), F.S., defines a type two transfer as:

Type Two Transfer—A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.

(a) Any 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. The transfer of segregated funds must be made in such a manner that the relation between program and revenue source as provided by law is retained.

(b) Unless otherwise provided by law, the head of the agency or department to which an existing agency or department or a program, activity, or function thereof is transferred is authorized to establish units or subunits to which the agency or department is assigned, and to assign administrative authority for identifiable programs, activities, or functions, to the extent authorized in this chapter.

(c) Unless otherwise 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.

III. Effect of Proposed Changes:

Section 1 provides for a type two transfer of the Division of Law Enforcement (DLE) within DEP to the Division of Law Enforcement within FWC. This transfer includes all powers, duties, and related functions, including personnel, property and all related rules and functions and unexpended balances, appropriations, and allocations from the Division of Law Enforcement within DEP to the Division of Law Enforcement within FWC (transferred by a type two transfer as defined in s. 20.06 (2), F.S.). The section specifies the number of administrative, auditing, inspector general, attorney and operational support positions proportionate to the number of Division of Law Enforcement full-time equivalent and other personal services positions being transferred from DEP to FWC. A memorandum of agreement shall be developed between DEP and FWC detailing the responsibilities of FWC to DEP to include, at a minimum:

- support and response for oil spills and natural disasters;
- law enforcement patrol and investigative services for all state-owned lands;
- law enforcement services, including investigative services, for all criminal law violations of chapters 258, 376, and 403, F.S.;
- enforcement services for all civil violation of all department administrative rules related to the following programs:
 - Division of Recreation and Parks,
 - Office of Coastal and Aquatic Managed Areas, and
 - Office of Greenways and Trails.

Section 2 provides for a type two transfer of DACS sworn positions assigned to the Florida Forest service and funded by the Conservation and Recreation Lands Program (as of July 1, 2011) and the investigator responsible for the enforcement of aquaculture violations (as of July 1, 2011) to the DLE within FWC.

Section 3 provides for transition advisory working groups.

Section 4 confers full power to the law enforcement officers of the FWC to investigate and arrest for violation of laws and rules of the DEP, Board of Trustees of the Internal Improvement Trust Fund and DACS, including state parks, coastal and aquatic managed areas, greenways and trails, CARL lands, and aquaculture lands.

Section 5 provides for the retention and transfer of specified benefits for employees that are transferred from DEP and DACS to fill positions transferred to the FWC. The CS provides that the DLE within the FWC is authorized to use available funds to provide for general salary

increases or pay additives for positions having the same job classification or job occupations in order to bring pay parity between positions of the FWC and the positions being transferred from the DEP and DACS, and for those positions assuming significant additional duties or an increased work load as a result of this CS.

Section 6 creates part IV of chapter 258, F.S., providing specific powers and duties of the commission relating to state parks, aquatic preserves and wild and scenic rivers

Sections 7-29 amends 20.255, 258.008, 258.501, 282.709, 316.003, 316.2397, 316.640, 375.041, 376.065, 376.07, 376.071, 376.16, 376.3071, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.413, 784.07, 843.08, 870.04, 932.7055, F.S., to provide conforming provisions to changes made by the CS and removes references to DEP and replacing them with FWC.

Section 30 provides an effective date.

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:

According to the FWC, the reduction in cost savings over 5 years will be approximately \$3.1 million dollars. This consolidation will reduce costs for administrative and support functions such as budgeting, personnel, general counsel, and inspector general activities because of a consolidation of functions and elimination of duplicated positions. The cost savings come from eliminating duplicative management positions and support staff while establishing additional patrol and first response capacity.

The bill transfers a 147.5 positions from DEP, and 15 positions from DACS to the FWC.

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 Environmental Preservation and Conservation Committee on January 30, 2012:

The CS does not transfer the Bureau of Emergency Response from DEP and provides that the DLE within the FWC is authorized to use funds for general salary increases to bring pay parity for positions being transferred from DEP and DACS to FWC and for those positions assuming significant additional duties or an increased work load as a result of this CS.

- B. **Amendments:**

None.