

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 Committee on Agriculture

BILL: CS/SB 1092

INTRODUCER: Agriculture Committee and Senator Simpson

SUBJECT: Commercial Motor Vehicle Review Board

DATE: March 18, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Becker	AG	Fav/CS
2.	_____	_____	TR	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1092 revises the membership of the Commercial Motor Vehicle Review Board, within the Florida Department of Transportation, by adding three additional members. The Governor is authorized to appoint a member from the road construction industry and one from the trucking industry. It authorizes the Commissioner of Agriculture to appoint a member from the agriculture industry. The appointments must be made by September 1, 2014, for terms beginning October 1, 2014.

II. Present Situation:

The Commercial Motor Vehicle Review Board (Board) was created in 1963 by s. 316.545(7), F.S., and consists of three permanent members: the Secretary of the Department of Transportation, the Executive Director of the Department of Highway Safety and Motor Vehicles, and the Commissioner of Agriculture, or their authorized representatives. The Board may review any penalty imposed upon any vehicle or person under the provisions of ch. 316, F.S., relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor tax compliance, or to violations of safety regulations. Rule 14A-1.001, F.A.C., provides that the Board may modify, cancel, revoke or sustain any civil penalty imposed pursuant to ss. 316.540, 316.545, or 316.3025, F.S. Commercial motor vehicle citation forms have a written statement that explains to the violator the opportunity to protest the violation before the Board. The Board reviews penalties imposed primarily by the Office of Motor Carrier and Compliance field staff of the Department of Transportation. Individuals may request a

formal administrative hearing pursuant to s. 120.57, F.S., if they are not satisfied with the Board’s decisions.¹

In order to protest a citation, the total amount of the citation must be paid and a written explanation of the ground for protest must be provided within sixty days of the receipt of the citation. The document must contain sufficient information to enable the Board to give adequate consideration to the case. In addition to the letter of protest, a copy of the citation being protested must be provided along with any additional pertinent documentation and evidence.²

The following chart represents case volumes and outcomes for the Board during the preceding two fiscal years:

Commercial Motor Vehicle Review Board³				
Year	Number of Citations Considered	Number of Cases Granted Relief	Number of Cases Granted Full Relief	Number of Cases Granted Partial Relief
FY 2011-12	862	283	103	180
FY 2012-13	813	308	133	175

In FY 2012/2013, the Board heard 813 cases that represented a total of \$751,184.85 in fines. Out of these 813 cases, relief was granted on 308 of the cases, or 38 percent, for a total refunded amount of \$247,390.74, or 33 percent.⁴ All of the funds received for the penalties associated with commercial motor vehicle compliance are deposited in the State Transportation Trust Fund.⁵

III. Effect of Proposed Changes:

Section 1 amends s. 316.545, F.S., to revise the membership of the Commercial Motor Vehicle Review Board by adding three additional members. The Governor shall appoint a member from the road construction industry and one from the trucking industry. The Commissioner of Agriculture shall appoint a member from the agriculture industry. The bill provides for qualifications and terms for the appointees. It also specifies quorum requirements.

Section 2 provides for appointments to be made to the board no later than September 1, 2014, for terms beginning on October 1, 2014.

Section 3 provides that this act shall take effect July 1, 2014, except as otherwise expressly provided in this act.

¹ State of Florida Office of the Auditor General, “Performance Audit of the Commercial Motor Vehicle Review Board Located Within the Department of Transportation,” *Report Number 11677*, (July 8, 1991).

² Traffic Engineering and Operations Office, Commercial Motor Vehicle Review Board, http://www.dot.state.fl.us/trafficoperations/traf_incident/CMVRB/CMVRB.shtm, (last visited February 21, 2014).

³ Information received from Florida Department of Transportation, (on file with the Senate Agriculture Committee).

⁴ Florida Department of Transportation, *Senate Bill 1092 Agency Analysis* (January 8, 2014).

⁵ Section 316.545(6), F.S.

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:

Indeterminate.

C. Government Sector Impact:

It is unknown whether this bill will result in changes to the number of citations heard by the board or in changes in the amount of funds received from commercial motor vehicle compliance penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.545 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture on March 17, 2014:

The committee substitute:

- Retains the Commercial Motor Vehicle Review Board within the Florida Department of Transportation instead of moving it to the Florida Department of Agriculture and Consumer Services;
- Changes the membership of the board by directing the Governor to appoint a member from the road construction industry and one from the trucking industry and the Commissioner of Agriculture to appoint a member from the agriculture industry;
- Specifies that the members appointed by the Governor and Commissioner of Agriculture shall serve a 2-year term;
- Provides that members of the board may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office;
- Requires an oath of office before entering official duties;
- Deletes the right to per diem and travel expenses; and
- Provides that a quorum of four members must be present for any action to be taken by the board.

B. Amendments:

None.