

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: SB 1092

INTRODUCER: Senator Simpson

SUBJECT: Commercial Motor Vehicle Review Board

DATE: March 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Becker	AG	Pre-meeting
2.			TR	
3.			AP	

I. Summary:

SB 1092 transfers the Commercial Motor Vehicle Review Board (Board) within the Florida Department of Transportation to the Florida Department of Agriculture and Consumer Services via a type two transfer. The Board provides a mechanism other than the court system for commercial motor vehicle drivers to protest commercial vehicle citations.

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

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).

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 transfers the Commercial Motor Vehicle Review Board from the Department of Transportation to the Department of Agriculture and Consumer Services by a type two transfer as defined in s. 20.06(2), F.S.

Section 2 amends s. 316.545, F.S., to revise the membership of the board, require additional appointments of members by the Governor, and provide qualifications for the appointees. It requires the Department of Highway Safety and Motor Vehicles and the Department of Transportation to provide the Board with assistance, information, and documents that will enable the Board to fulfill its duties. Members of the Board shall serve without compensation, but the bill provides the members with per diem and reimbursement of travel expenses.

Section 3 directs the Governor to make appointments to the board no later than September 1, 2014, for terms beginning on October 1, 2014.

Section 4 provides that this act shall take effect July 1, 2014, except as otherwise expressly provided in this act.

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:

The Florida Department of Highway Safety and Motor Vehicles has indicated that the bill's fiscal impact to the agency is indeterminate. The Department's Bureau of Commercial Vehicle and Driver Services and the Florida Highway Patrol's Office of Commercial Vehicle Enforcement would have operational impacts and possible travel expenses. The Department would continue to be required to provide assistance and information to the Board and the level of effort in review would probably be the same, if not greater as the bill does not provide specific detail.⁶

The Florida Department of Transportation has indicated that it currently expends approximately \$67,000 annually to cover ongoing operating cost associated with the Board.⁷

The Commercial Motor Vehicle Review Board consists of five members who meet monthly, rotating between Tallahassee, Orlando, and Tampa. The bill does not authorize Board members to be compensated, but appointed members are entitled to receive per diem and travel expenses, which at this time is indeterminate.

⁶ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 1092 Agency Analysis* (February 26, 2014) (on file with the Senate Agriculture Committee).

⁷ Florida Department of Transportation, *Senate Bill 1092 Agency Analysis* (January 8, 2014) (on file with the Senate Agriculture Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends subsection 316.545(7) of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.