

**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/SB 1092

INTRODUCER: Agriculture Committee and Senator Simpson

SUBJECT: Commercial Motor Vehicle Review Board

DATE: March 23, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Everette</u>	<u>Eichin</u>	<u>TR</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

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**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 Commercial Vehicle Enforcement field staff of the Department of Highway Safety and Motor Vehicles. Individuals may request a formal administrative hearing pursuant to s. 120.57, F.S., if they are not satisfied with the Board's decisions.<sup>1</sup>

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<sup>1</sup> 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).

SB 2160 in 2011 provided a successful transfer of the Office of Commercial Vehicle Enforcement (formerly Office of Motor Carrier Compliance) from the Department of Transportation (FDOT) to the Department of Highway Safety and Motor Vehicles, Florida Highway Patrol. Non-sworn weight inspectors and commercial motor vehicle enforcement’s supporting administrative staff remained at the FDOT as part of the Motor Carrier Weight Inspection Office while sworn law enforcement were consolidated with the Florida Highway Patrol. Troopers enforce state and federal laws and FDOT rules that regulate the weight, size and registration of vehicles operating on the Florida’s highways.<sup>2</sup> The Commercial Motor Vehicle Review Board resides at the FDOT.

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 60 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.<sup>3</sup>

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

<b>Commercial Motor Vehicle Review Board<sup>4</sup></b>				
<b>Year</b>	<b>Number of Citations Considered</b>	<b>Number of Cases Granted Relief</b>	<b>Number of Cases Granted Full Relief</b>	<b>Number of Cases Granted Partial Relief</b>
<b>FY 2011-12</b>	862	283	103	180
<b>FY 2012-13</b>	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.<sup>5</sup> All of the funds received for the penalties associated with commercial motor vehicle compliance are deposited in the State Transportation Trust Fund.<sup>6</sup>

**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

<sup>2</sup> The state’s weight and size limits were established to prevent heavy trucks from causing unreasonable damage to highway systems and thereby protect the public’s investment in these roadways. Commercial Vehicle Enforcement’s Weight Enforcement program uses sworn law enforcement officers to enforce vehicle weight, size, fuel tax, and registration requirements. Law enforcement officers patrol the state’s highways and use portable scales to weigh trucks that do not pass fixed scale facilities.

<sup>3</sup> Traffic Engineering and Operations Office, Commercial Motor Vehicle Review Board, [http://www.dot.state.fl.us/trafficoperations/traf\\_incident/CMVRB/CMVRB.shtm](http://www.dot.state.fl.us/trafficoperations/traf_incident/CMVRB/CMVRB.shtm), (last visited February 21, 2014).

<sup>4</sup> Information received from Florida Department of Transportation, (on file with the Senate Agriculture Committee).

<sup>5</sup> Florida Department of Transportation, *Senate Bill 1092 Agency Analysis* (January 8, 2014).

<sup>6</sup> Section 316.545(6), F.S.

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.

**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 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 Changes:**

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

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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