

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 537 Commercial Motor Vehicle Review Board  
**SPONSOR(S):** Transportation & Highway Safety Subcommittee; Beshears  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1092

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N, As CS	Davy	Miller
2) Business & Professional Regulation Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
4) Economic Affairs Committee			

### SUMMARY ANALYSIS

The Commercial Motor Vehicle Review Board (Board) is the state entity created in statute that functions to consider protested commercial vehicle citations. The board may review, sustain, modify, cancel, or revoke any penalty imposed on any vehicle or person under the provisions of chapter 316, F.S., relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations. Any person may, upon payment of their penalty, apply to the Board for a modification, cancellation, or revocation of a penalty for violations of certain commercial vehicle regulations. The board is part of the Florida Department of Transportation (FDOT) and has three permanent members, the Secretary of the Department of Transportation, the executive director of the Department of Highway Safety and Motor Vehicles (DHSMV), and the Commissioner of Agriculture. Each permanent member may appoint an additional member to the board.

This bill revises the membership of the Board by adding three appointed members who have private experience in the state of Florida. The Governor will appoint two of the members from the private sector, one member from the trucking industry and one member from the road construction industry. The Commissioner of Agriculture will appoint the final member of the review board from the agriculture industry. Appointments must be made by September 1, 2014, for terms beginning October 1, 2014.

The bill provides that members must take an oath of office pledging to honestly, faithfully, and impartially perform their duties before beginning official action on the Board. The Governor may remove members of the Board for misconduct, malfeasance, misfeasance, or nonfeasance in office.

The bill provides that official action may only be taken by a quorum of the Board.

Currently all fee revenues imposed and collected for commercial motor vehicle compliance violations of size, weight, and special fuel and motor fuel tax, or safety regulations are deposited in the State Transportation Trust Fund, which is administered by FDOT. It is unknown whether this bill will result in changes to the number of citations heard by the Board or the amount of refunds granted. Changes to the amount of funds received from commercial motor vehicle compliance penalties would impact the State Transportation Trust Fund.

The effective date of the bill is July 1, 2014.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0537a.THSS

DATE: 2/24/2014

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background:

Currently, enforcement of commercial motor vehicle compliance is carried out by DHSMV<sup>1</sup> and motor vehicle weight inspections are carried out by FDOT.<sup>2</sup> Any individual or vehicle who receives a penalty under the provisions of chapter 316 relating to weights imposed on the highways by the axels and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations may, upon payment of their penalty<sup>3</sup>, apply to the Board to have their penalty reconsidered. The Board is then authorized to modify, cancel, revoke, or sustain each penalty.<sup>4</sup>

Specifically, the Board reviews testimony or other evidence supporting the modification, cancellation, or revocation of penalties upon receipt of their payment imposed pursuant to sections:

- 316.516, F.S., regarding size restrictions of width, height, or length;
- 316.545, F.S., regarding weight and load violations and special fuel and motor fuel tax violations;
- 316.550, F.S., regarding operating an oversize or overweight vehicle without a special permit; and
- 316.3025, F.S., regarding operating an unsafe and out of service vehicle, texting while driving a commercial vehicle, or unsafe handling of hazardous cargo.<sup>5</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>6</sup></b>				
<b>Year</b>	<b># of Citations Considered</b>	<b># of Cases Granted Relief</b>	<b># of Cases Full Relief</b>	<b># of Cases Partial Relief</b>
<b>FY 2011-12</b>	862	283	103	180
<b>FY 2012-13</b>	813	308	133	175

The Board currently is made up of three permanent members, the Secretary of FDOT, the Executive Director of DHSMV, and the Commissioner of DACS, or their authorized representatives. The Secretary of FDOT is the chair. Each of the permanent members of the Board may appoint an additional person to be a member of the Board.<sup>7</sup> The Board meets monthly and rotates its location between Orlando, Tampa, and Tallahassee.<sup>8</sup> Pursuant to s. 112.061, F.S., as state officers and employees, each member receives reimbursement for travel expenses and per diem relating to their service on the Board.

All of the funds received for the penalties associated with commercial motor vehicle compliance are deposited in the State Transportation Trust Fund.<sup>9</sup>

#### Proposed Changes:

<sup>1</sup> Section 20.24, F.S.

<sup>2</sup> Section 20.23, F.S.

<sup>3</sup> Florida Administrative Code 14A-1.004.

<sup>4</sup> Section 316.545 (8), F.S.

<sup>5</sup> Florida Administrative Code 14A-1.004.

<sup>6</sup> Information received from the Florida Department of Transportation in email correspondence on file with Transportation and Highway Safety Subcommittee staff. (1/21/14)

<sup>7</sup> Section 316.545 (7), F.S.

<sup>8</sup> See Florida Department of Transportation, Commercial Motor Vehicle Review Board website, available at:

[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 January 23, 2014).

<sup>9</sup> Section 316.545 (6), F.S.

This bill revises the membership of the Board. Each of the three permanent members of the Board will no longer have the power to appoint an additional member. Instead, the Governor will appoint a fourth member from the trucking industry, a fifth member from the road construction industry, and the Commissioner of Agriculture will appoint a sixth member from the agriculture industry. The appointed members must be registered voters, citizens of the state of Florida, and possess business experience in the private sector.

Each appointed member will serve a two-year term on the Board. The appointments to the Board must be made no later than September 1, 2014, for terms beginning October 1, 2014. A vacancy on the Board occurring during a term of an appointed member will only be filled for the balance of the unexpired term. The governor may remove members from the board for misconduct, malfeasance, misfeasance, or nonfeasance in office. Each member is required to take and subscribe to an oath before an official authorized by law to administer oaths prior to entering upon his or her official duties. The oath declares that he or she that he or she will honestly, faithfully, and impartially perform the duties devolving upon him or her in office as a member of the review board and that he or she will not neglect any duties imposed upon him or her by ss. 316.3025, 316.550, or 316.545, F.S.

Four members of the Board will constitute a quorum, and the vote of three members including the chair, or otherwise four members, is required for any action taken by the board. A vacancy on the board cannot impair the right of a quorum of the board to exercise all of the rights and perform all of the duties of the board.

An effective date of July 1, 2014 is provided.

**B. SECTION DIRECTORY:**

Section 1: amends s. 316.545, F.S. to revise the membership of the board, require additional appointments of members by the Governor and the Commissioner of Agriculture, provide qualifications and terms for the appointees, and specifies board quorum requirements.

Section 2: provides for appointments to be made by September 1, 2014, for terms to begin on October 1, 2014.

Section 3: provides an effective date of July 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See Fiscal Comment.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The Board heard 813 cases in fiscal year 2012-13 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. The total amount of citations issued and fines collected for 2012 was 37,724 citations and \$5,832,977.<sup>10</sup> It is unknown whether this bill will result in changes to the number of citations heard by the Board or the amount of refunds granted. Changes to the amount of funds received from commercial motor vehicle compliance penalties would impact the State Transportation Trust Fund.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 18, 2014, the Transportation & Highway Safety Subcommittee adopted one amendment and reported the bill favorable as a committee substitute. The amendment:

- retained the Board within FDOT instead of moving it to DACS as provided in the original bill as filed;
- changed the membership of the Board by providing for the governor to appoint a fourth member from the road construction industry and a fifth member from the trucking industry, and for the Commissioner of Agriculture to appoint a sixth member from the agriculture industry;
- specified that appointed members of the board will each serve a 2 year term;
- provided that members of the Board may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office;
- required an oath of office that each member must take before entering his or her official duties; and
- provided that a quorum of four members must be present for any action taken by the board, and a vacancy in the board will not impair the right of a quorum of the Board to exercise all of the rights and perform all of the duties of the board.

This analysis is drafted to the committee substitute as passed by the Transportation & Highway Safety Subcommittee.

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<sup>10</sup> 2014 FDOT Agency Bill Analysis for HB 537. On file with the Transportation & Highway Safety Subcommittee.  
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