

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 Community Affairs

BILL: CS/SB 544

INTRODUCER: Agriculture Committee and Senator Simpson and others

SUBJECT: Licensure to Carry a Concealed Weapon or Firearm

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
3.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Pre-meeting
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 544 creates a new section of law within ch. 790, F.S., to allow the Department of Agriculture and Consumer Services (department) to appoint county tax collectors to accept new and renewal concealed weapon or firearm license applications. The applicant information would be electronically input and transmitted to the department's Division of Licensing headquarters in Tallahassee for processing and subsequent issuance by mail only. Currently, it is the department's responsibility to issue concealed weapon and firearm licenses to qualified applicants.¹

County tax collectors who are interested in being appointed by the department will submit a written application for acceptance. Upon approval of the tax collector's qualifications by the department, the Division of Licensing then has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector. Both the department and the division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is given confidential and exempt status by the linked bill, SB 546.

¹ Section 790.0601(1), F.S.

II. Present Situation:

The Department of Agriculture and Consumer Services (DACCS, or department) is responsible for issuing concealed weapon and firearm licenses to those applicants who qualify.² As of the end of fiscal year (FY) 2012-2013, there were 1,098,458 valid Florida concealed weapon licenses.³ During FY 2012-2013, the department received 96,840 new license applications, 2,153 applications for license renewal, and the department issued 99,606 new concealed weapon licenses and 2,239 renewals.⁴ During FY 2013-2014, the department received 107,666 new license applications and 2,172 applications for license renewal, and issued 109,971 new concealed weapon licenses and 2,265 renewals.⁵

Concealed Weapon License Application Requirements

To obtain a concealed weapons license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee no greater than \$70 for a new license or no greater than \$60 for a renewal.⁶

There is an additional fee for processing the fingerprints, typically \$42. According to information provided by the department, \$42 is the fee payable to the Florida Department of Law Enforcement (FDLE). A portion of the \$42 covers fees paid by FDLE to the FBI for assistance in completing the required background check.⁷ Sheriff's offices are statutorily authorized to collect \$5 for fingerprinting services.⁸

Section 790.06(6)(c), F.S., requires the department to either issue the license or deny its issuance and notify the applicant within 90 days of receiving a completed application. The department typically meets this requirement except under circumstances explained on the link to "Frequently

² *Id.*

³ DACCS, *Concealed Weapon or Firearm License Reports*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Concealed-Weapon-License/Statistical-Reports> (last visited Feb. 25 10, 2014).

⁴ *Id.*

⁵ *Id.*

⁶ Section 790.06(1)-(5), F.S.

⁷ E-mail correspondence with the Department of Agriculture and Consumer Services (Jan. 16, 2014).

⁸ Section 790.06(6)(b), F.S.

Asked Questions” on the department webpage. The most common reasons for delay and the department response to those issues are explained as follows:⁹

- If we find that your application is incomplete for some reason (a missing answer to a question; check made out for the wrong amount; no firearms training documentation; etc.), we will notify you by letter of this problem and request that you provide us with the missing information or documentation.
- If law enforcement authorities determine that your fingerprints are insufficiently legible to complete a proper background check, we will send you a letter requesting a second fingerprint submission as required by law. If your second fingerprint submission is also deemed illegible, we can then ask the FBI to conduct a name-based background check.
- If the background check results we receive from law enforcement authorities reflect a potentially disqualifying crime without a final disposition, we will send you a letter requesting that you provide us with court documents indicating the final disposition.

The department has made a “Fast Track Processing” system available to applicants in 8 regional offices.¹⁰ During an appointment, the applicant can fill out and submit the application, have their fingerprints scanned electronically, have their picture taken and make their payment. Staff reviews the application for completeness at the regional office before it is submitted to the department’s Division of Licensing for final processing. Renewal concealed weapon licenses require far less documentation and therefore can be completed much faster either via a regional office or mail in. In fact, if a renewal is done in one of the eight regional offices, with few exceptions, the limited processing work can be done onsite and the renewal license is issued to the waiting applicant.¹¹

County Tax Collector Authority

Article VIII, Section 1(d) of the Florida Constitution provides that Tax Collectors are elected County Officers. The tax collector is the county officer charged with the collection of ad valorem taxes levied by the county, the school board, any special taxing districts within the county, and all municipalities within the county.¹² County tax collections are supervised by the state Department of Revenue.¹³ Tax collectors may appoint deputies to act on their behalf in carrying out the duties prescribed by law.¹⁴

Several state agencies and departments are currently authorized to enter into agreements with county tax collectors for various purposes. Some examples that are similar to the arrangement with the department contemplated by the bill include:

⁹ DACS, *Frequently Asked Questions*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Frequently-Asked-Questions> (last visited Feb. 25, 2014).

¹⁰ The regional offices are located in Fort Walton Beach, Jacksonville, Doral, Orlando, Punta Gorda, Tallahassee, Tampa, and West Palm Beach. DACS, *Regional Office Locations*, www.freshfromflorida.com (last visited Feb. 25, 2014).

¹¹ DACS, *Fast Track Processing*, www.freshfromflorida.com (last visited Feb. 25, 2014).

¹² Section 192.001(4), F.S.

¹³ See generally Ch. 195, F.S.; s. 197.603, F.S.

¹⁴ Section 197.103, F.S.

- The Department of State may appoint a county tax collector as an agent to accept applications for licenses or license renewals or other similar registrations.¹⁵
- The Department of Highway Safety and Motor Vehicles (DHSMV) authorizes tax collectors to act as agents of the department in matters of motor vehicle registration. DHSMV has statutory authority to install The Florida Real Time Vehicle Information System in the tax collectors offices to facilitate the agency relationship.¹⁶
- DHSMV also has a statutory mandate to enter interagency agreements with county tax collectors to issue driver licenses, identification cards, and vessel registrations.¹⁷
- The county tax collectors may sell licenses for game hunting and fishing, as authorized by statute and the Fish and Wildlife Conservation Commission.¹⁸
- The Department of Business and Professional Regulation (DBPR) may enter into an agreement with county tax collectors to act as the department’s agent to accept applications for licenses or renewals of licenses to practice professions that fall within DBPR jurisdiction.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 790.06, F.S., to authorize the department to appoint any of Florida’s 64 elected tax collectors to accept new and renewal concealed weapon or firearm license applications.

Section 2 creates s. 790.0625, F.S., to allow the department to appoint elected county tax collectors to accept applications on behalf of the Division of Licensing for concealed weapon or firearm licenses. The applicant information would be electronically input and transmitted to the division in Tallahassee for processing and subsequent issuance by mail only.

County tax collectors who are interested in being appointed by the department will submit a request to the division. The division then has the discretion to enter into a Memorandum of Understanding with the tax collector. Both the department and the division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector’s records as a result of the MOU is given confidential and exempt status by the linked bill, SB 546.

Appointed tax collectors may not maintain a list of persons who apply for or receive a new or renewal concealed weapon or firearm license. Maintaining such a list makes the person subject to the provisions of s. 790.335, F.S.²⁰

¹⁵ Section 288.037, F.S.

¹⁶ Section 320.03, F.S.

¹⁷ Section 322.135, F.S., s. 328.73, F.S.

¹⁸ Section 379.352, F.S.

¹⁹ Section 455.213, F.S.

²⁰ Section 790.335, F.S., states: “PROHIBITIONS.—No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms.” Such conduct is subject to third degree felony penalties and a \$5 million dollar fine.

A tax collector appointed under the provisions of the bill is entitled to charge the applicant a convenience fee in the amount of \$22 for accepting new license applications and \$12 for accepting each renewal application. License fees collected by the tax collector are to be remitted to the department weekly.

The bill authorizes tax collectors approved for appointment under newly-created s. 790.0625, F.S., to administer fingerprints for license applicants.

The bill prohibits persons who are not appointed by the department from handling applications for any fee or compensation.

The bill creates a second degree misdemeanor for willful violations of newly-created s. 790.0625, F.S.

The bill makes no changes to eligibility criteria or license application requirements.

Section 3 appropriates the sums of \$707,608 in recurring and \$105,503 in nonrecurring funds from the Division of Licensing Trust Fund to the department for the 2014-2015 fiscal year. It also authorizes 11 full-time positions for the purpose of implementing the provisions of the bill.

Section 4 provides that this act shall take effect July 1, 2014.

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:

Persons applying for a new concealed weapon or firearm license would be charged a \$22 convenience fee and those applying for a renewal would pay a \$12 renewal application fee by participating tax collectors.

C. Government Sector Impact:²¹

The department expects an increase in the number of concealed weapon and firearm license applicants and renewals given the convenience of being able to apply or renew at a local tax collector rather than having only eight regional offices or the mail as options. The department estimates that an indeterminate amount of additional revenue will be generated and paid into the Division of Licensing Trust Fund from additional tax collector offices receiving and initially processing the increase in applications.

The department has indicated that implementation will require 11 additional positions at a total cost of \$728,721 in year one, with recurring costs of \$687,218 thereafter. These costs would be paid from the Division of Licensing Trust Fund.

EXPENDITURES	FY 14-15	FY 16-16	FY 16-17
Salaries and Benefits:			
4 Compliance Officers	157,863	157,863	157,863
4 Corp Doc Records Examiners	148,080	148,080	148,080
2 Systems Programmer II - SES	119,154	119,154	119,154
1 Accountant I	39,466	39,466	39,466
Expenses:			
11 Professional Expense Packages	68,871	68,871	68,871
Operating Capital Outlay:			
Electronic Fingerprinting Scanners (\$15,000 per unit; estimate 10 purchases per year over three years for participating tax collectors	150,000	150,000	150,000
Special Category:			
11 Human Resources Allocations	3,784	3,784	3,784
Non-Recurring Expenses:			
11 Professional Expenses Packages	41,503	0	0
TOTAL OPERATING COSTS:	\$728,721	\$687,218	\$687,218

Tax collectors choosing to apply to be appointed to receive new and renewal license applications would staff the receiving and initial application processing function with existing or new staff as determined by the tax collector. Without knowing the exact number of interested and eligible tax collectors, the DACS analysis uses an arbitrary estimate of 30 tax collectors. The department currently plans on providing one \$15,000 electronic fingerprint scanner to each tax collector appointed; the annual maintenance and

²¹ Information contained in this portion of this bill analysis is from DACS, Division of Licensing, *Senate Bill 544 Agency Analysis* (Jan. 23, 2014).

future replacement will be the responsibility of the tax collector. Additional information technology equipment required for each tax collector office includes a minimum of two personal computers, a camera and document imaging scanner, among other equipment costing approximately \$3,000 for a minimum set up. This minimum equipment set up would be the tax collector's responsibility.

As currently envisioned, applicant electronic fingerprint background checks would be transmitted by tax collectors directly to Florida Department of Law Enforcement (FDLE). In this scenario, the tax collectors would have the option of either having FDLE bill them directly for the cost and charging the concealed weapon license applicant a fee to cover the FDLE cost (which includes the FBI fee) plus any additional amount to defray tax collector costs or transmitting the electronic fingerprints and having the applicant pay FDLE on their own, within 30 days. The sheriff's offices give applicants this option when conducting fingerprint background checks.

Network connectivity to transmit applicant information will be provided via a standard My Florida Net (MFN) connection available to all state agencies. This MFN connection is currently in place in tax collector locations where driver licenses and motor vehicle tags are issued. No additional cost would be incurred and the data transmission would be encrypted via this secure network.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06 of the Florida Statutes.

This bill creates section 790.0625 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.)

CS by Agriculture on February 17, 2014:

The committee substitute includes two appropriations and authorizes 11 full-time positions to implement the provisions of the bill.

B. Amendments:

None.

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