

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 978

SPONSOR: Transportation Committee and Senator Burt

SUBJECT: Seaport Security

DATE: April 17, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McAuliffe	Meyer	TR	Favorable/CS
2.	_____	_____	NR	_____
3.	_____	_____	AGG	_____
4.	_____	_____	AP	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

I. Summary:

This CS provides minimum-security standards for Florida’s seaports. The CS provides the Department of Law Enforcement (FDLE), in consultation with the Office of Drug Control (ODC) must adopt rules incorporating statewide minimum-security standards for all 14 of Florida’s deep-water seaports.

This CS substantially amends section 311.12 of the Florida Statutes.

II. Present Situation:

Currently, there are no consistently recognized security standards for seaports at either the state or federal level. Several federal agencies (the U.S. Department of Transportation, the U.S. Coast Guard, U. S. Customs, etc.) have made attempts to delineate standards for various aspects of seaport operations. The standards adopted by the various federal agencies, however, are not enforced and constitute little more than guidelines.

There is no state agency charged with either the statutory authority or responsibility to regulate seaport operations. Several agencies and organizations in Florida have varying degrees of involvement in seaport operations including the Department of Transportation, the Florida Ports Council, and the Florida Seaport Transportation and Economic Development Council. None of these entities has specific authority to oversee seaport operations or seaport security.

Most Florida seaports (12 of 14) do not have sworn law enforcement personnel permanently assigned to the port. Of the twelve that do not, only two have contracted with local law enforcement for regularly scheduled or dedicated police patrols of port grounds. Eleven of the ports do not employ photo ID cards to identify personnel and control access to facilities. Twelve

of the ports do not employ successful completion of a fingerprint based criminal history background check as a condition of employment, and nine of the seaports do not sponsor regularly scheduled standing security committees at which stakeholders can meet to discuss security-related issues and coordination and integration of security initiatives.

In November of 1999, the Florida Legislative Task Force on Illicit Money Laundering rendered its final report. The task force made thirty-six recommendations for dealing with a wide range of money laundering issues. Several of the recommendations in the report pertained specifically to Florida seaports. Those recommendations were:

- Seaport security plans should be exempt from the public record law.
- The number of canine units and Customs agents should be increased at seaports.
- The presence of the National Guard should be increased at seaports.
- A state agency should be designated responsible for seaport security.
- Minimum-security standards should be established for seaports.

A statewide security assessment of Florida's seaports was conducted Camber Corporation for the Office of Drug Control, Executive Office of the Governor. This report was released in September of 2000 and made specific recommendations for minimum-security standards for all Florida seaports.

III. Effect of Proposed Changes:

Section 311.12, F.S., is amended to provide minimum-security standards for Florida's seaports. The CS provides the Department of Law Enforcement (FDLE), in consultation with the Office of Drug Control (ODC) must adopt rules incorporating statewide minimum-security standards for all 14 of Florida's deep-water seaports. The rules must include, but are not limited to:

- Criteria establishing specifications, and requirements of picture-identification badges for personnel at the port any more frequently than 5 days in any given 90-day period and criteria limiting access to only authorized areas.
- Criteria establishing fingerprint-based criminal history background checks of all prospective and current seaport employees.
- Criteria for felony convictions that would disqualify a prospective or current seaport employee. Providing for a waiver of such disqualification. A requirement that any seaport employee promptly notify the seaport director when the employee is arrested for any felony, which would disqualify them from employment.
- Criteria limiting access to a seaport in restricted areas for visitors and vehicles, including parking access passes.
- Criteria for the use of gates and gatehouses; criteria for vendor access; criteria for fencing, lighting and signage; criteria for the use of locks and keys and for regularly scheduled inspections of facilities.
- Criteria for operational and procedural security within each seaport including security committees and sworn law enforcement presence at the seaport.
- Criteria for the equipping and minimum training of security personnel.
- Criteria for establishing computer security, cargo security, and video surveillance.

- Criteria for security of cruise operations and passengers.
- Enhanced security requirements applicable to the ports of Jacksonville, Port Everglades, Miami, and Tampa, but not limited to, extra video surveillance and enhanced 24-hour security monitoring of activities at the ports.

The CS provides the cost of the fingerprint-based criminal history check will be paid by the employing entity or the prospective or current employee. The fingerprints will be submitted to the FDLE for state processing and the Federal Bureau of Investigation for federal processing.

The CS provides a seaport may petition for a waiver or variance to the minimum seaport security standards. In petitioning for any waiver or variance, a seaport may include the recommendations of local law enforcement and the Florida Seaport Transportation and Economic Development Council as support for its request. The FDLE in consultation with the ODC, may grant a waiver or variance if it determines that the existing port structures or operations reasonably assure a level of security equal to or exceeding the level of security promoted by the specific rule provision for which the variance or waiver is sought. Only a seaport may seek such a variance or waiver.

The CS provides if funds are appropriated for seaport security the ODC and the FSTED Council will mutually determine the allocation of such funds.

By December 31, 2001, the FDLE or any entity selected by FDLE, will conduct an initial inspection of each seaport to determine the preliminary status of security compliance and report its observations to each seaport, ODC, the FSTED Council, the Legislature and the Governor. Such observations will be used as a factor in making funding decisions. Beginning January 1, 2002, the FDLE shall conduct not less than once annually an unannounced inspection of each seaport to determine if the seaports are meeting minimum-security standards. By December 31, 2002, and each year thereafter, the FDLE, in consultation with ODC, will issue a report indicating the results of each seaport inspection. Failures to comply with minimum-security standards noted in the report must be accompanied by a response from the seaport. Findings from the report may be used to modify security criteria.

The CS provides by June 30, 2004, each seaport must be in compliance with the physical infrastructure improvements and minimum-security standards unless the standard has been waived or a variance has been granted. The level of compliance with seaport security standards will effect state funding of seaports.

The CS provides any seaport that receives notification of failure to meet security standards must respond to FDLE. FDLE will review the seaport response and conduct a follow-up review to determine if the notification was justified. If the follow-up review determines that the seaport continues to fail to meet the security standard the seaport will have 5 working days following the written FDLE response, to provide a written supplemental response. The CS provides FDLE may impose a civil penalty of \$1,000 per day on any seaport which fails to respond to FDLE within the time limits. FDLE, in consultation with ODC, may suspend the imposition of any civil penalty authorized in this subsection.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The security assessment study conducted by the Office of Drug Control identified funding needs relating to infrastructure, fingerprint equipment, and inspections. The Office of Drug Control and FDLE recommended that \$17 million be expended this fiscal year (FY 01-02), \$15 million in FY 02-03, and \$2 million in FY 03-04.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.