

# 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/CS/SB 1404

SPONSOR: Criminal Justice Committee, Governmental Oversight and Productivity and Senator Futch

SUBJECT: Law Enforcement Agency Consolidation Study Task Force

DATE: March 4, 2002                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	Favorable/CS
2.	Erickson	Cannon	CJ	Favorable/CS
3.	_____	_____	APJ	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This CS creates the Law Enforcement Agency Consolidation Study Task Force within the Executive Office of the Governor. The task force is assigned the responsibility of studying the effects of consolidating the law enforcement agencies in the state under a unified command. The task force must report its findings and recommendations to the Governor and Legislature.

This CS creates an undesignated section of Florida law.

**II. Present Situation:**

**Organizational Structure** – Chapter 20, F.S., establishes the organizational structure of executive branch entities. Section 20.02(1), F.S., sets forth state policy on governmental organization:

The State Constitution contemplates the separation of powers within state government among the legislative, executive, and judicial branches of the government. The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the Legislature and of making policy recommendations to the Legislature. The judicial branch has the purpose of determining the constitutional propriety of the policies and programs and of adjudicating any conflicts arising from the interpretation or application of the laws.

Section 20.02(4), F.S., provides that structural reorganization must be a continuing process through careful executive and legislative appraisal of the placement of proposed new programs and the coordination of existing programs in response to public needs.

Further, under s. 20.02(6), F.S., the management and coordination of state services must be improved and overlapping activities eliminated.

Section 20.02(2), F.S., reiterates the constitutional requirement that the agencies that compose the executive branch must be consolidated into no more than 25 departments, exclusive of those specifically provided for or authorized in the State Constitution, consistent with executive capacity to administer effectively at all levels. The agencies in the executive branch should be integrated into one of the departments of the executive branch to achieve maximum efficiency and effectiveness as intended by s. 6, Art. IV of the State Constitution.

Section 20.03, F.S., contains definitions of the various types of entities that are authorized in the executive branch. Included in the definitional section are definitions for “council” or “advisory council,”<sup>1</sup> “committee” or “task force,”<sup>2</sup> “coordinating council,”<sup>3</sup> “commission,”<sup>4</sup> and “board of trustees.”<sup>5</sup> Under the scheme set forth in law, a council or advisory council, a committee or a task force, and a coordinating council are advisory bodies. A commission or a board of trustees exercise executive powers.

**Law Enforcement Agencies** – There are numerous entities in Florida that have been assigned law enforcement responsibilities. The most obvious is the Florida Department of Law Enforcement (the “FDLE”). The Legislature created the FDLE in s. 20.201, F.S. Pursuant to s. 20.201(1), F.S., the head of the FDLE is the Governor and Cabinet.<sup>6</sup> The executive director of FDLE is appointed by the Governor with the approval of three members of the Cabinet, subject to confirmation by the Senate.<sup>7</sup> Three programs are established in the FDLE: (1) Criminal Justice

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<sup>1</sup> Section 20.03(7), F.S., defines “council” or “advisory council” to mean an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

<sup>2</sup> Section 20.03(8), F.S., defines “committee” or “task force” to mean an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.

<sup>3</sup> Section 20.03(9), F.S., defines the term “coordinating council” to mean an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.

<sup>4</sup> Section 20.03(10), F.S., defines the term “commission” to mean, unless otherwise required by the State Constitution, a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

<sup>5</sup> Section 20.03(12), F.S., defines the term “board of trustees” to mean, except with reference to the board created in chapter 253, F.S., a board created by specific statutory enactment and appointed to function adjunctively to a department, the Governor, or the Executive Office of the Governor to administer public property or a public program.

<sup>6</sup> As of January 7, 2003, Art. IV, s. 3(g) of the State Constitution will require that the Governor as chair, the Chief Financial Officer, the Attorney General, and the Commissioner of Agriculture will constitute the agency head of the FDLE.

<sup>7</sup> Section 20.201(1), F.S.

Investigations and Forensic Science Program; (2) Criminal Justice Information Program; and (3) Criminal Justice Professionalism Program.<sup>8</sup>

Other agencies with law enforcement powers referred to in the bill include:

- < Agency for Health Care Administration
- < Department of Agriculture and Consumer Services
- < Department of Business and Professional Regulation
- < Department of Education
- < Department of Environmental Protection
- < Department of Highway Safety and Motor Vehicles
- < Department of Insurance
- < Department of Management Services
- < Department of Transportation
- < Fish and Wildlife Conservation Commission

Additionally, there are various university and community college police.

**Law Enforcement Coordination** – The Florida Mutual Aid Act is created in part I, ch. 23, F.S.<sup>9</sup> The act authorizes a mutual aid plan which provides for the command and coordination of law enforcement planning, operations, and mutual aid, as well as the distribution of information. Under the act, two types of mutual aid agreements are permissible, both of which are written:

1. **Voluntary Cooperation Agreement** – This type of mutual aid plan is between two or more law enforcement agencies, or between one or more law enforcement agencies and a school board or state university. The agreement specifies the nature of assistance to be rendered, which entity bears any liability, the procedures for requesting and for authorizing assistance, the entity with command and supervisory responsibility, a time limit for the agreement, compensation or reimbursement, and any other necessary terms.<sup>10</sup>
2. **Requested Operational Assistance Agreement** – This type of agreement is between two or more law enforcement agencies, or between one or more law enforcement agencies and either a school board or university, for the rendering of assistance in a law enforcement emergency. The agreement must specify the nature of the assistance to be rendered, the entity with liability for acts arising under the agreement, procedures for requesting and for authorizing assistance, the entity with command and supervisory responsibility, a time limit for the agreement, amount of compensation or reimbursement, and other terms.<sup>11</sup>

Under s. 23.1231, F.S., the Florida Mutual Aid Plan must prepare for the distribution and allocation of state resources, including the Florida National Guard, in support of the overall law

<sup>8</sup> Section 20.201(2), F.S.

<sup>9</sup> Sections 23.12 – 23.127, F.S.

<sup>10</sup> Examples of law enforcement activities that may be addressed in a voluntary cooperation written agreement include, but are not limited to, establishing a joint city-county task force on narcotics smuggling, authorizing school safety officers to enforce laws in an area within 1,000 feet of a school or school board property, or establishing a joint city-county traffic enforcement task force.

<sup>11</sup> An example of the use of a requested operational assistance agreement is to meet a request for assistance due to a civil disturbance or other emergency as defined in s. 252.34, F.S.

enforcement mission. The plan is administered by the FDLE. The executive director of the FDLE is the director of the plan. As such, he or she is assigned the following duties:

1. Coordinate, integrate, and implement law enforcement planning and activities for use of mutual aid and state resources;
2. Coordinate the organization and direction of the law enforcement services of the plan;
3. Coordinate and implement the gathering and collection of information and intelligence relating to law enforcement mutual aid or assistance from state agencies to local law enforcement agencies;
4. During a state of emergency declared by the Governor, command, control, and coordinate all state law enforcement personnel and equipment to support local law enforcement agencies;
5. Act as liaison with the Division of the Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles to coordinate and integrate plans for traffic control and the participation of the department in the law enforcement operation;
6. Serve as liaison from local law enforcement for requesting services from the Florida National Guard;
7. Serve as liaison to the Governor, federal and state departments and agencies, and local law enforcement officials;
8. Guide the flow of law enforcement information from federal and state organization to local law enforcement; and
9. Serve as liaison to the Attorney General to keep him or her apprised.

### **III. Effect of Proposed Changes:**

The CS creates the Law Enforcement Agency Consolidation Study Task Force (the “task force”) within the Executive Office of the Governor (the “EOG”). The task force is composed of five members:

1. Two representatives from private corporate industry with expertise in corporate mergers, who are appointed by the Governor;
2. The Attorney General or his or her designee;
3. A member of the Senate, appointed by the Senate President; and
4. A member of the House of Representatives, appointed by the Speaker of the House of Representatives.

The first meeting of the task force is to be held by no later than July 15, 2002, at which time the members are to select by majority vote a chairperson from the members. All other recommendations of the task force must be by majority vote.

The task force is explicitly made subject to the requirements of ch. 119, F.S., and s. 286.011, F.S.

Task force members are entitled to reimbursement for per diem and travel in accordance with s. 112.061, F.S.

The Executive Office of the Governor provides staff support for the task force.

The task force is assigned the duty to study the effects of consolidating law enforcement agencies in Florida under a unified command.

A preliminary and final report are required by the committee substitute. The preliminary draft is due 45 days before the first day of the 2003 Regular Session of the Legislature. The final report is due 30 days before the first day of that session.

The preliminary and draft report must:

- < Identify all law enforcement functions and personnel positions that exist in each state agency;
- < Identify all statutory provisions that assign law enforcement duties to the state agencies;
- < Identify the options considered by the task force for consolidation of law enforcement functions, duties, and personnel, and identify costs for consolidation under each option considered;
- < If the task force determines that partial or total consolidation of law enforcement functions or personnel, or both, would preserve and promote public safety and be in the best interests of the state, recommend the best option of consolidating law enforcement functions or personnel, or both, including a cost analysis and comparison with supporting analysis.

Each state agency is required to fully cooperate with the task force in the performance of its duties. Further, each state department, division, or agency that has been assigned law enforcement functions or that employs sworn law enforcement personnel must submit a report to the task force on the number of positions within that department, division, or agency which are positions for sworn law enforcement personnel and identify any section of the Florida Statutes upon which the department, division, or agency relies for authority to employ the sworn law enforcement personnel. These reports must be submitted to the task force by October 1, 2002.

The task force is abolished July 1, 2003.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The task force is subject to open government requirements.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The fiscal impact on the private sector of establishing the task force is unknown, but would be expected to be minimal, if at all. Recommendations to consolidate law enforcement functions, however, could result in lower costs to the private sector, though this is indeterminate.

**C. Government Sector Impact:**

Staff of the Executive Office of the Governor will serve as staff to the task force. The CS provides no additional funding for the task force, so costs would be borne by the EOG.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The CS does not provide for representation of any law enforcement officials on the commission.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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