

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 Transportation Committee

BILL: SB 1434

INTRODUCER: Senator Latvala

SUBJECT: Office of Motor Carrier Compliance

DATE: March 13, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	Pre-meeting
2.	_____	_____	GO	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill transfers the Office of Motor Carrier Compliance (OMCC) of the Department of Transportation (FDOT) by a type-two transfer¹ to the Division of the Florida Highway Patrol (FHP) of the Department of Highway Safety & Motor Vehicles (DHSMV).

Effective July 1, 2011, the bill creates a Law Enforcement Consolidation Task Force, provides for its membership, administrative support, and duties; and requires the task force to submit a specified plan. The bill also makes conforming changes.

This bill substantially amends ss. 110.205, 311.115, 316.3026, 321.05, and 334.044 of the Florida Statutes.

This bill creates two undesignated sections of law.

II. Present Situation:

The OMCC was created in 1980 by merging weight and safety enforcement functions from the FHP and the Florida Public Service Commission. Staffed by both sworn law enforcement officers and regulatory weight inspectors, OMCC assists the FDOT in fulfilling its mission of providing a safe transportation system by performing commercial vehicle safety and weight enforcement.

¹ In accordance with s. 20.06(2)(a), F.S. “[A]ny agency or department or a program, activity, or function thereof transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided by law.”

The primary purposes of the OMCC, currently housed within FDOT, are to protect the highway system's pavement and structures from excessive damage due to overweight and oversize vehicles, and to reduce the number and severity of crashes involving commercial vehicles.² The OMCC enforces state and federal laws and agency rules that regulate the weight and size of vehicles operating on the state's highways, and the safety of commercial motor vehicles and their drivers.

The program uses both non-sworn weight inspectors and sworn law enforcement officers to enforce vehicle weight, size, fuel tax, and registration requirements. These inspectors weigh trucks and check registration and fuel tax compliance at fixed-scale locations along major highways. The program's law enforcement officers patrol the state's highways and use portable scales to weigh trucks that do not pass fixed-scale stations.³ There are currently 497 FTEs within the OMCC dedicated to weight enforcement, of which 267 are sworn law enforcement officers and 178 are civilian (non-sworn) weight inspectors, and an additional 52 administrative support staff.

As part of their patrol duties on state highways, the program's law enforcement officers also enforce commercial motor vehicle safety regulations by performing safety inspections and enforcing traffic laws. The program's safety enforcement responsibilities also include compliance reviews at carrier places of business, which are performed by specially-trained law enforcement staff.⁴

According to FDOT, in calendar year 2010, the OMCC weighed 21,786,099 trucks, resulting in 52,223 weight citations. OMCC personnel also completed 118,383 driver/vehicle inspection reports resulting in 23,317 vehicles and/or drivers placed out of service for serious vehicle safety defects and driver licensing or hours of service violations. A typical weight violation case requires approximately 30 minutes per case and a complete CMV inspection will require 45-90 minutes. Over 96 percent of all enforcement contacts made by OMCC personnel were directly related to interactions with CMVs, including inspections, weight enforcement, speed enforcement, etc.

In addition, OMCC officers:

- conduct compliance review audits on Florida-based carriers;
- conduct post-crash CMV inspections for vehicles involved in fatal and serious injury crashes at the request of the FHP and local law enforcement agencies; and
- conduct inspections of hazardous materials shipments on our roadways and deepwater ports.

The OMCC serves as Florida's primary law enforcement radiological and nuclear detection agency in partnership with local, state and federal agencies.

OMCC Funding

² Office of Program Policy Analysis and Government Accountability, *Report # 01-45*, October 2001.

³ *Id.*

⁴ *Id.*

According to FDOT, the operational cost of the OMCC reflects less than 1% of the FDOT annual budget. Annual funding is provided by the State Transportation Trust Fund (STTF) and by the USDOT Federal Motor Carrier Safety Administration (FMCSA) grant program(s). Of the total OMCC FY 2010-11 budget (\$39,589,127), \$8,389,889 was provided by the FMCSA grant(s)⁵ and \$647,359 was received from the Department of Homeland Security.⁶

III. Effect of Proposed Changes:

The bill directs the OMCC to be transferred via type two transfer to the FHP within the DHSMV, effective July 1, 2011. The OMCC’s non-sworn weight inspectors and sworn law enforcement officers would be moved to DHSMV as part of the transfer.

The DHSMV's FHP and DOT’s OMCC both patrol Florida's highways and enforce the criminal and traffic laws. The type of consolidation being considered is to move OMCC virtually intact into FHP, creating a statewide troop dedicated to commercial motor carrier enforcement. OMCC, wherever it may be located, must remain focused on the enforcement of motor carrier compliance in order to maintain current federal funding levels.

The bill also creates effective July 1, 2011, the Law Enforcement Consolidation Task Force, the membership of which includes the Executive Directors of DHSMV and the Department of Law Enforcement, a representative of the Office of Attorney General, a representative from the Department of Agriculture and Consumer Services, and the Colonels of the FHP and the Division of Law Enforcement in the Fish and Wildlife Commission. The task force is authorized to consult with the Florida Sheriffs Association and the Florida Police Chiefs Association. DHSMV is directed to provide administrative assistance to the task force, not including travel expenses, which are to be paid by the agency the member represents.

The task force is directed to evaluate the duplication of law enforcement functions throughout state government and identify functions that are appropriate for possible consolidation, as well as administrative functions, including, without limitation, accreditation, training, legal representation, vehicle fleets, aircraft, civilian support staffing, information technology, geographic regions, and districts or troops currently in use. The task force is also required to submit recommendations and a plan to consolidate state law enforcement functions to the President of the Senate and the Speaker of the House of Representative by February 1, 2012. The plan must include recommendations on the methodology to be used in creating a consolidated state law enforcement entity by June 30, 2013. The task force is set to expire on June 30, 2012.

⁵ 2010 Grants		
MCSAP/Incentive Grant -	\$8,196,889	(Core CMV Safety Grant funded since FY 95/96)
New Entrant	\$ 122,000	(Outreach and education for new intrastate carriers)
Pre-TACT	\$ <u>71,000</u>	(New grant for the development of an enforcement program directed at aggressive drivers Targeting Aggressive Cars and Trucks)
Total	\$8,389,889	

⁶ Department of Transportation, *Agency Bill Analysis: SB 1434* (on file with the Senate Transportation Committee).

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:

None.

C. Government Sector Impact:

The DHSMV estimates a net savings in year one of \$1,296,186, \$1,877,089 in year two and \$1,879,371 in year three resulting from the transfer of the OMCC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.