

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 Environmental Preservation and Conservation Committee

BILL: SB 1782

INTRODUCER: Senator Latvala

SUBJECT: Fish and Wildlife Conservation Commission

DATE: January 19, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Pre-meeting
2.			AG	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill transfers and reassigns functions and responsibilities of the Division of Law Enforcement within the Department of Environmental Protection (DEP) to the Division of Law Enforcement (DLE) within the Fish and Wildlife Conservation Commission (FWC). The bill provides for the transfer of additional positions to FWC if needed. The bill provides for a memorandum of agreement between DEP and FWC regarding the responsibilities of the FWC to DEP. The bill also transfers and reassigns functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program and assigned to the Florida Forest Service within the Department of Agriculture and Consumer Services (DACS) and the investigator responsible for the enforcement of aquaculture violations in DACS to the DLE within FWC.

The bill provides for transition of advisory working groups, assigning powers, duties, responsibilities, and functions for the enforcement of the laws and rules governing certain lands managed to the DEP and certain lands and aquaculture managed by DACS to FWC. The bill confers the full power to the law enforcement officers of the FWC to investigate and arrest for violations of rules of the DEP and DACS to fill positions transferred to FWC.

The bill amends ss. 20.255, 171.205, 206.9935, 258.008, 258.501, 282.709, 287.0595, 316.003, 316.2397, 316.640, 376.021, 376.031, 376.11, 376.40, 376.051, 376.065, 376.07, 376.0705, 376.071, 376.09, 376.10, 376.12, 376.121, 376.123, 376.14, 376.15, 376.16, 376.19, 376.30, 376.301, 376.303, 376.305, 376.307, 376.308, 377.709, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.707, 403.413, 403.703, 403.704, 403.727, 487.048, 784.07, 843.08, 870.04, and 932.7055, of the F.S.

The bill creates ss. 258.601, 376.3031, and 403.7041, F.S.

II. Present Situation:

Senate Bill 2160 passed in 2011, and established the Law Enforcement Consolidation Task Force, to conduct a review of the conservation law enforcement activities and assets of DACS, DEP, and FWC, and to evaluate if any duplication of law enforcement functions exists between the agencies. This taskforce was named the Environmental Unit Sub-Team. The team determined that the patrol of state-owned and managed lands provided by the FWC, DEP, and DACS (in particular the Conservation and Recreational Land (CARL) Officer positions and Aquaculture positions) have elements that are duplicative and, in turn, has exacerbated a manpower shortage for the agencies. The duplication of functions is most notable in the existence of three separate management and support structures for the sole purpose of providing law enforcement patrol to all state-owned/managed lands and is most apparent when comparing FWC and DEP. The identified DACS positions, on the other hand, do not necessarily have a duplicative structure, but rather DACS provides duplicative management/support services for its officers at the expense of attending to the agency's primary duties and responsibilities. The DACS management support staff provides something that is already provided by both FWC and DEP while diminishing to some degree the provision of those services to DACS core functions. Consolidation of these management structures and functions into the existing structure at FWC could eliminate this duplication.¹

The Environmental Unit Sub-Team has also identified inefficiency with the current dispersal of patrol responsibilities among the three agencies, which leads to the appearance or even public perception of duplication of services. The inefficiency arises from having three different agencies providing separate law enforcement services based on the pretense, for law enforcement purposes, of state-owned/managed lands being divided into different types of properties (i.e., wildlife management areas, wildlife and environmental management areas, state parks, greenways and trails, coastal and aquatic managed areas, and state forests). Due to this, there may be an FWC officer patrolling a management area adjacent to a state park that is being patrolled by a DEP officer that is also adjacent to a state forest being patrolled by a DACS CARL officer. While state lands are managed differently based on their designated use, conservation law enforcement strategies remain essentially the same, independent of the prevailing land management approach. Consolidation of these artificial distinctions between all state-owned/managed lands as it relates to law enforcement services would allow a more efficient use of rank and file officers and provide a welcome opportunity to establish law enforcement coverage in areas of the state that have historically received little or no patrol due to staffing issues. The responsibilities and activities of these three agencies are closely aligned and similar enough in scope so that significant efficiencies in the delivery of law enforcement services as well as cost savings can be realized by consolidating the functions as discussed below.²

¹ Recommendations for the Law Enforcement Consolidation task Force, by Colonel Jim Brown, Division Director, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, October 11, 2011.

² *Id.*

Findings of the Task Force

- All three agencies have responsibility to provide law enforcement patrol, investigative, and forensic services on state-managed lands, which are frequently located within close proximity to each other.
- The enforcement functions for each entity are established by the Legislature.
- Investigative activities of the three agencies are similar in scope and approach.
- The three Bureaus within the DEP Division of Law Enforcement (DLE) (Park Police, Environmental Investigations, and Emergency Response) are interdependent resulting in value-added services that are not present when separated.
- Integration of DEP officers and DACS CARL and Aquaculture officers in the FWC DLE will improve response time, increase personnel available for patrol coverage across conservation lands and state waters, and decrease the burden on local law enforcement agencies.
- Consolidation will result in a streamlined agency with approximately 10 percent of sworn supervisory positions being reassigned to field positions leading to increased response time.
- In 2008, the Office of Program Policy Analysis and Government Accountability (OPPAGA) provided the Legislature with four policy options related to environmental law enforcement. The third option was the centralization of environmental law enforcement under one state agency that currently has this function. The joint agency recommendation is a variation of the third option, capturing all of the advantages while minimizing adverse impacts.

Recommendations

The Environmental Unit Sub-Team recommends the following:

- Integration of the DEP Division of Law Enforcement, in its entirety, into the FWC Division of Law Enforcement (175.5 positions and additional support positions).
- Integration of the DACS Office of Agricultural Law Enforcement officers assigned to CARL Patrol and the investigator responsible for commercial aquaculture violations into the FWC Division of Law Enforcement (15 positions).
- Enact statutory and administrative code changes where appropriate to integrate the functions.

Conclusion

Consolidating the three agencies will result in a highly effective, more efficient state law enforcement division with complete jurisdiction over the natural and historic resources and publicly-owned and managed lands and waters of the state having enhanced patrol capability response presence.

III. Effect of Proposed Changes:

Section 1 transfers all powers, duties, and related functions, including personnel, property and all related rules and functions and unexpended balances, appropriations, and allocations from the Division of Law Enforcement within DEP to the Division of Law Enforcement within FWC (transferred by a type two transfer as defined in s. 20.06 (2), F.S.). The section specifies the number of administrative, auditing, inspector general, attorney and operational support positions proportionate to the number of Division of Law Enforcement full-time equivalent and other

personal services positions being transferred from DEP to FWC. A memorandum of agreement shall be developed between DEP and FWC detailing the responsibilities of FWC to DEP to include, at a minimum:

- support and response for oil spills, and natural disasters;
- law enforcement patrol and investigative services for all state-owned lands;
- law enforcement services, including investigative services, for all criminal law violations of chapters 258, 376, and 403, F.S.
- enforcement services for all civil violation of all department administrative rules related to the following programs:
 - Division of Recreation and Parks,
 - Office of Coastal and Aquatic Managed Areas, and
 - Office of Greenways and Trails.

Section 2 transfers and reassigns functions and responsibilities of sworn positions funded by the Conservation and Recreation Lands Program assigned to the Florida Forest Service within DACS, and the investigator responsible for the enforcement of aquaculture violation at DACS to the DLW within the FWC.

Section 3 provides for transition advisory working groups.

Section 4 confers full power to the law enforcement officers of the FWC to investigate and arrest for violation of laws and rules of the DEP, Board of Trustees of the Internal Improvement Trust Fund and DACS, including state parks, coastal and aquatic managed areas, greenways and trails, CARL lands, and aquaculture lands.

Section 5 provides for the retention and transfer of specified benefits for employees that are transferred from DEP and DACS to fill positions transferred to the FWC.

Section 6 renumbers sections (5) through (8) of s. 20.255, F.S., and removes the reference to DLE.

Section 7 – Section 9 conforms ss. 206.9935, 258.008, 258.501, by removing references to DEP and replacing them with FWC.

Section 10 creates part IV of chapter 258, F.S., providing specific powers and duties of the commission relating to state parks, aquatic preserves and wild and scenic rivers.

Sections 11 – 31 amend ss. 282.709, 287.0595, 316.2397, 316.640, 376.021, 376.031, 376.051, 376.065, 376.07, 376.0705, 376.071, 376.09, 376.10, 376.12, 376.121, 376.123, 376.14, 376.15, 376.16, and 376.19, F.S., removing references to DEP and replacing them with FWC.

Section 32 renumbers section s. 376.30, F.S., to clarify that DEP has the power to deal with environmental health hazards and threats of danger and damage posed by such storage, transportation, and disposal of pollutants and hazardous substances and related activities that are neither imminent nor immediate.

Sections 33 and 34 conform ss. 376.301 and 376.303, F.S., and removes references to DEP and replaces them with FWC including a trust fund reference to Water Quality Assurance Trust.

Section 35 creates s. 376.3031, F.S., to specify powers and duties of FWC relating to the removal of pollutant discharges and response to hazardous waste emergencies.

Section 36 amends s. 376.305, F.S., to include FWC as an authority to assist in the removal of prohibited discharges.

Section 37 amends s. 376.307, F.S., to provide for funding of the Water Quality Assurance Trust Fund through an annual transfer to the Florida Coastal Protection Trust Fund.

Sections 38 - 46 amend ss. 376.308, 379.3311, 379.3312, 379.3313, 379.333, 379.341, 403.413, 403.703, and 403.704, F.S., performing necessary conforming changes and replacing references to DEP with FWC.

Section 47 creates s. 403.7041, F.S., to define the powers and duties of the FWC in relation to instituting a hazardous waste emergency response program.

Sections 48 - 58 amend ss. 403.727, 784.07, 843.08, 870.04, 932.7055, 171.205, 316.003, 376.40, 377.709, 403.707, and 487.048, F.S., performing necessary conforming changes and replacing references to DEP with FWC.

Section 59 provides an effective date.

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:

According to the FWC the reduction in cost savings over 5 years will be approximately \$3.1 million dollars. This consolidation will reduce costs for administrative and support functions such as budgeting, personnel, general counsel, and inspector general activities because of a consolidation of functions and elimination of duplicated positions. The cost savings comes from eliminating duplicative management positions and support staff while establishing additional patrol and first response capacity.

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.