



The Florida Senate

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Committee on Military Affairs and Domestic Security

FLORIDA SEAPORT SECURITY

Issue Description

Florida's public seaports represent an important component of the state's economic infrastructure. The Florida Ports Council estimates that by 2008, the annual economic impact of Florida's seaports will have approached approximately 350,000 jobs, \$43 billion in gross economic output, and \$1.3 billion in annual state and local tax revenues.¹

Because of the ports' importance to the economy of Florida, a level of security that protects against acts of terrorism, trafficking in illicit drugs, cargo theft, and money laundering operations is considered essential.

Security requirements for Florida's fourteen deepwater public ports are regulated under ch. 311, Florida Statutes (F.S.). For purposes of protection against acts of terrorism, these ports are also regulated by federal law under the Maritime Transportation Security Act of 2002 (MTSA),² the Security and Accountability for Every Port Act (SAFE Port Act),³ and the Code of Federal Regulations (CFR).⁴ In addition, provisions of international treaties such as the Safety of Life at Sea (SOLAS), which protect the safety of merchant ships, have been incorporated within the CFR in fulfillment of treaty obligations that affect seaport security at United States (U. S.) and foreign ports.

At issue is whether Florida's seaport security regulatory system is now redundant because the national seaport security environment post September 11, 2001, has changed significantly.

Background

Concern over the impact of illicit drugs and drug trafficking came to the forefront in Florida during the mid to late 1990's. According to a Senate Interim Project Summary report at the time, in 1997 there were more cocaine-related deaths in Florida than murders. During 1996, more than 32 tons of cocaine and more than 42 tons of marijuana were seized in Florida.⁵

In the 1999-2000 timeframe, three events contributed to the development of a seaport security framework for Florida:

First, the presiding officers of the Legislature formed a task force that examined, among other things, the issue of money laundering related to illicit drug trafficking.⁶ The task force found that Florida was attractive to drug traffickers due to a number of factors including Florida's strategic position near drug source countries and numerous international airports and deep water seaports.⁷ The task force provided a number of recommendations

¹ Florida Ports Council, "Florida Seaports' Statewide and Regional Strategic Visioning Process," July-September 2006, Presentation on Results of Strategic Visioning, September 27, 2006.

² Public Law (P.L.) 107-295, 116 Stat. 2064 (2002).

³ P.L. 109-347, 120 Stat. 1884 (2006).

⁴ Principally 33 CFR, Parts 101 – 106 as they relate to various aspects of vessel and port security.

⁵ Florida Senate, Interim Project Summary 98-13, "Developing a Comprehensive Drug Control Strategy for Florida," November, 1998, p. 2.

⁶ Legislative Task Force on Illicit Money Laundering, "Money Laundering in Florida: Report of the Legislative Task Force", November 1999.

⁷ Ibid, p. 18.

including designating a state agency responsible for seaport and airport security and described the then current seaport security situation by saying:

“Customs considers poor seaport security a major reason for drug smuggling. Unlike airports, there is no viable system of federal regulations mandating specific security standards for seaports and marine terminals. Fairly new regulations govern security for large passenger vessels and cruise ship terminals. There are however, no corresponding federal regulations for sea cargo vessels and seaport and marine terminals.”⁸

Second, the Executive Office of the Governor’s Office of Drug Control commissioned a Statewide Security Assessment of Florida Seaports. The report, which came to be known as the Camber Report,⁹ concluded that there was no supervisory agency over all the seaports of the state, no federal or state security standards that governed the seaports’ operation, and only limited background checks were conducted on employees at the docks, thus allowing convicted felons, some with arrests for drug-related charges, to work at the seaports.

The report recommended the creation of a “State Seaport Authority” to regulate all seaports in the state, creation of minimum security standards for all seaports, and the creation and implementation of a security plan by the operators of each seaport.

Third, the Fifteenth Statewide Grand Jury conducted an analysis of Florida’s drug control efforts. The Statewide Grand Jury supported the conclusions and recommendations of the Camber Report and highlighted the need for background screening due to testimony they received that “some dock workers carry firearms and that intimidation by dock workers is used as a method of avoiding detection of illegal drug activity.” The report cited efforts to impede law enforcement officers at the Miami seaport including simple harassment, blocking law enforcement vehicles with cargo containers, and even dropping a cargo container on a law enforcement vehicle occupied by police canine. Testimony revealed that as many as 60 percent of the Port of Miami dock workers had felony arrests, half of which were drug related charges.¹⁰

The 2000 Legislature passed CS/CS/CS/SB 1258.¹¹ This legislation provided additional regulations for money laundering and created s. 311.12, F.S., relating to seaport security. In creating s. 311.12, F.S., the Legislature introduced regulation of seaports that benefited from public financing and provided for:

- Development and implementation of a statewide seaport security plan including minimum standards for seaport security that address the **prevention of criminal activity and money laundering**;
- Development of individual seaport security plans at each of the ports listed in s. 311.09 (1), F.S.¹²;
- Establishment of a fingerprint-based criminal history check of current employees and future applicants for employment at Florida’s seaports; and
- A requirement directing the Florida Department of Law Enforcement (FDLE) to annually conduct no less than one unannounced inspection at each of the public ports and report its findings to the Governor, the President of the Senate, the Speaker of the House, and the chief administrator of each seaport inspected.

Section 311.12, F.S., was amended during the 2001 Legislative Session to incorporate seaport security standards.¹³ The section has been further amended to disqualify persons who have been convicted of certain offenses within the previous seven years from gaining initial employment within or regular access to a seaport or

⁸ Ibid, p. 46.

⁹ Camber Corporation for the Office of Drug Control, Executive Office of the Governor, “Statewide Security Assessment of Florida Seaports,” September 2000.

¹⁰ Fifteenth Statewide Grand Jury Report, “An Analysis of Florida’s Drug Control Efforts,” December 14, 2000.

¹¹ 2000-360, Laws of Florida (L.O.F.)

¹² The seaports listed in s. 311.09(1), F.S., include the ports of Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina. The ports of Fort Pierce and Port St. Joe are currently exempted from annual inspection under the provisions of s. 311.12, F.S., based on a finding that these seaports are considered inactive for purposes of the statute.

¹³ Note: Camber Report standards were incorporated in s. 311.12, F.S., by 2001-112, L.O.F. These standards form the basis for FDLE’s current seaport security inspection program.

port restricted access area. Current disqualifying offenses relate to terrorism, distribution or smuggling of illicit drugs, felony theft and robbery, money laundering, and felony use of weapons or firearms.

Attacks on America Changed the Seaport Security Environment

The terrorist attacks on America brought security issues into sharper focus. Florida adapted its existing seaport security structure to accommodate anti-terrorism measures in addition to its previous efforts against illicit drug trafficking, cargo theft, and money laundering.

Since September 11, 2001, the U.S. Congress has produced multiple pieces of legislation that affect seaport security. This effort included passage of the Homeland Security Act of 2002 which resulted in a major governmental reorganization that created the Department of Homeland Security (DHS).¹⁴ The U. S. Customs and Border Protection agency (CBP) was transferred to DHS with the mission to prevent terrorists and terrorist weapons from entering the U. S.¹⁵ The U. S. Coast Guard (USCG) was also transferred to DHS and given the mission of lead federal agency for maritime homeland security including ports, waterways, and coastal security as well as drug interdiction.¹⁶

Congress passed the MTSA in November of 2002, thereby laying out the federal structure for defending U.S. ports against acts of terrorism. In passing MTSA, Congress primarily set forth direction for anti-terrorism activities but also recognized in its findings that crime on ports in the late 1990's including, drug smuggling, illegal car smuggling, fraud, and cargo theft had been a problem. In laying out a maritime security framework, MTSA established a requirement for development and implementation of national and area maritime transportation security plans, vessel and facility security plans, and a transportation security card¹⁷ along with requirements to conduct vulnerability assessments for port facilities and vessels and establishment of a process to assess foreign ports, from which vessels depart on voyages to the United States.¹⁸

The MTSA is implemented by Title 33 Code of Federal Regulations (CFR).¹⁹ Title 33 CFR provides for review and approval of Facility Security Plans²⁰ by the Captain of the Port (COTP) responsible for each seaport area.²¹ The USCG also acknowledged Presidential Executive Order 13132 regarding the principle of Federalism and preemption of state law in drafting MTSA rules.²² Under this provision, Florida has the right to exercise authority over its public seaports that are also regulated by federal authority when there is no conflict between state and federal regulations. Executive Order 13132 states in Section 4:

¹⁴ The Homeland Security Act of 2002, P.L. 107-296 (2002).

¹⁵ Department of Homeland Security Fact Sheet @ www.dhs.gov/dhspublic/display?theme=43&content=5437&print=true.

¹⁶ Congressional Research Service, "Homeland Security: Coast Guard Operations – Background and Issues for Congress," October 25, 2006. Note: According to this report, under the Ports and Waterways Safety Act of 1972 (P.L. 92-340) and the Maritime Transportation Security ACT of 2002 (P.L. 107-295 of November 25, 2002), the Coast Guard has responsibility to protect vessels and harbors from subversive acts. With regard to port security, the Coast Guard is responsible for evaluating, boarding, and inspecting commercial ships approaching U. S. waters, countering terrorist threats in U.S. ports, and helping protect U. S. Navy ships in U. S. ports. A Coast Guard officer in each port area is designated the COPT to serve as the lead federal official for security and safety of vessels and waterways in that area.

¹⁷ The Maritime Transportation Security Act of 2002 (P.L. 107-295 of November 25, 2002)

¹⁸ Government Accountability Office, "Maritime Security, One Year Later: A Progress Report on the SAFE Port Act," GAO-18-171T, October 16, 2007, p. 1.

¹⁹ Title 33 CFR, Parts 101 through 106 which are administered by the USCG.

²⁰ Title 33 CFR, Subpart 101.105 defines a facility as any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the U.S. and used, operated, or maintained by a public or private entity, including any contiguous or adjoining property under common ownership or operation. A seaport may be considered a facility by itself or in the case of large seaports may include multiple facilities within the port boundaries.

²¹ Note: This is significant in Florida in that port tenants individually bear security plan responsibility under USCG administration of Title 33 CFR, while ch. 311, F.S., holds each seaport's port authority responsible for security plan development and implementation.

²² Federal Register, Vol. 68, No. 204, Wednesday, October 22, 2003, p. 60468.

- (a) Agencies shall construe, in regulations and otherwise, a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.
- (b) Where a Federal statute does not preempt State law (as addressed in subsection (a) of this section), agencies shall construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute or there is clear evidence to conclude that the Congress intended the agency to have the authority to preempt State law.²³

The SAFE Port Act, enacted in October 2006, created some new maritime security programs and amended some of the original provisions of MTSA. The act:

- Codified the Container Security Initiative and the Customs-Trade Partnership Against Terrorism (C-TPAT) which are two programs administered by CBP to help reduce threats associated with cargo shipped in containers;
- Established the Domestic Nuclear Detection Office which is responsible for conducting research, development, testing, and evaluation of radiation detection equipment; and
- Required that all containers entering high volume U.S. ports be scanned for radiation sources by December 31, 2007.²⁴

Findings

Seaport Security Environment Has Changed Significantly Since 2000

Federal involvement with Florida's seaports has changed significantly since s. 311.12, F.S., was originally enacted. The Government Accountability Office (GAO) recently identified 19 separate federal programs and initiatives that have been established since the enactment of MTSA and the SAFE Port Act. These programs and initiatives address overall port security, port facility security, and container security with a focus on protecting against terrorist acts.²⁵

Enhancements to physical security have greatly improved Florida's seaports security posture since 2000. Florida's 12 seaports which are currently subject to s. 311.12, F.S., have benefited from federal grant funding which was used to build fencing, high-mast lighting, closed circuit video cameras, access card systems and procedures, radiation detection portal monitors, and other systems and technology to deter and prevent potential acts of terrorism. In addition, state trust fund dollars from the Florida Seaport Transportation and Economic Development Council were diverted from economic development projects for several years to assist in completing security infrastructure projects. Currently, all active public seaports in Florida are considered substantially compliant in meeting state seaport security standards. Likewise, all meet current federal standards.

Seaport Administrators and Port Stakeholders Express Concern

In order to identify stakeholders' concerns, Senate professional staff met with a representative sample of port officials, port tenants, seaport labor officials, and federal officials as well as representatives from the law enforcement community and the Governor's Office of Drug Control.

Seaport administrative officials' and tenant stakeholders' concerns revolve mainly around the cost of maintaining security at the ports. Seaport administrators concerns related to significant security operational costs which are mandated but are not funded through federal grants or state legislative appropriation. Tenants and labor officials

²³ Presidential Executive Order 13132, "Federalism," August 4, 1999.

²⁴ The Security and Accountability for Every Port Act of 2006 (P.L. 109-347).

²⁵ Government Accountability Office, "Maritime Security, One Year Later: A Progress Report on the SAFE Port Act," GAO-18-171T, October 16, 2007, p. 3.

are mainly concerned with the costs of access credentialing both in terms of actual badge costs as well as lost productivity days while undergoing the access credential application process. Additional major concerns can be summarized as follows:

- Seaports now provide security under a dual federal and state system. Seaport administrators expressed concern that regulation under s. 311.12, F.S., is burdensome, out of date, and redundant because federal programs are now much more effective than those in place prior to September 11, 2001; and
- The Camber Report is almost 10 years old and is now out of date.

Determining What Constitutes Adequate Security Is Difficult

The terrorism threat continues to evolve, thereby requiring security systems to evolve as well. As a best practice, seaport security systems conduct threat assessments, identify vulnerability gaps, conduct risk analysis, and implement technology and procedural improvements to address the threats. This process is used to meet both state and federal requirements for developing each seaport's security plan. The goal of the process is to deter terrorist and criminal acts while at the same time minimizing any adverse impact on the flow of commerce. The COTP is given authority under MTSA to determine that a seaport has achieved an adequate level of security against acts of terrorism. The COTP exercises this authority through approval of the seaport's security plan and verification through periodic on-site inspections. Pursuant to s. 311.12, F.S., the Office of Drug Control and FDLE jointly exercise security plan approval for terrorism and criminal activity as provided in Florida law. Seaport security adequacy is determined through required annual unannounced inspections conducted by FDLE based on conformance with Florida law, and guided by FDLE's Seaport Inspection Manual.

A second difficulty relates to a degree of unavoidable, subjective judgment necessary to determine if certain standards have been met. Seaport administrators believe that the USCG grants a greater degree of flexibility than that allowed by the current administration of state law. Seaport administrators reported their view that state inspections were bureaucratic, repetitive, and unnecessarily time consuming. However, the USCG's inspection program has come under recent criticism from the GAO. The SAFE Port Act now requires the USCG to conduct at least two facility compliance inspections annually, one of which must be unannounced. During the period examined by the GAO, the USCG maintained that all required inspections had been performed. However, available documentation only supported approximately two-thirds of the required inspections had been performed. The GAO was unable to verify whether the problem was simply a lack of sufficient documentation or an indication of failure to perform the required inspections. Further, the GAO called into question whether the USCG had sufficient personnel resources available to conduct all of the required inspections, citing assignment of additional duties to inspectors and periodic higher priority duties as detrimental to the inspection mission. Finally, the GAO questioned a perceived lack of standardization in the conduct of USCG inspections.²⁶

Seaport Security Measures Must Address Both the Threat of Terrorism and Criminal Activity

The mere possibility of an act of terrorism on U. S. shores remains the leading justification behind the tremendous resources being expended to prevent such an act. Acts of terrorism are commonly thought of as low probability/high consequence events. As such, defensive security efforts are based on often imprecise intelligence information and a possible but statistically low probability of attack. Security improvements at Florida's seaports hopefully have increased the difficulty of conducting a successful terrorist attack. However, the complexity and pace of seaport operations leave open the possibility for exploitation of vulnerabilities. Therefore security measures must be adopted, consistently applied, and constantly updated in order to adequately address the threat.

Conversely, the consequences of a successful attack, particularly to the cruise industry, could have severe economic impact in Florida. For example, the ports of Miami, Port Canaveral, and Port Everglades represent the top three cruise ports in the nation as defined by embarkation data. The Port of Tampa ranks in the top ten.²⁷ Cruise industry officials as well as seaport administrators report that they are acutely aware of the potential impact

²⁶Government Accountability Office, "Maritime Security, Coast Guard Inspections Identify and Correct Facility Deficiencies, but More Analysis Needed of Program's Staffing, Practices, and Data," GAO-08-12, February 2008.

²⁷ Source: American Association of Port Authorities, Port Industry Information/Cruise Industry@ www.aapa-port.org.

and believe they have taken adequate precautions to address the threat and protect their own economic viability. State efforts are deemed excessive by cruise industry and port officials. The counter that Senate professional staff heard from law enforcement and security officials is that it only takes one successful attack to threaten the industry and the state's economy. Law enforcement officials believe that state involvement in the process adds an additional beneficial layer in deterring terrorism and criminal acts.

Illicit drug smuggling remains a significant threat. For example, the National Drug Intelligence Center (NDIC)²⁸ reports an estimated 530 to 710 Metric Tons (MT) of cocaine departed South America toward the U. S. in 2006. South American cocaine production increased in 2006, potentially producing 970 MT, as Columbian coca growers adapted to previous eradication efforts. Trend data showed that cocaine smuggling through South Texas ports of entry (primarily land ports as opposed to seaports) most likely accounts for a greater portion of the cocaine available in U. S. drug markets than any other area along the Southwest Border. The NDIC identifies eight movement corridors or "vectors" along which cocaine travels to the United States. Significantly, the Western Caribbean (which includes Florida) movement vector's share decreased from 38 percent in 2005 to 24 percent in 2006.²⁹ The original concerns about illicit drug smuggling that led to the creation of s. 311.12, F.S. are likely still valid; and the drop in drug movement in the Western Caribbean indicates that drug trafficking is less pervasive in Florida than in prior years, likely due, in part, to drug trafficking laws.

Stakeholders Support Adoption of a Single Port Access Credential That Can Be Used Statewide

MTSA required the adoption of a nationwide transportation security card. In response, federal efforts led to the development of the Transportation Worker Identification Credential (TWIC). The goal of the TWIC program is to provide a single nationwide transportation industry access credential that, after completion of a screening process including background check,³⁰ will signify eligibility for unescorted access to a facility. Florida seaport administrators believe that final facility access should be granted to TWIC card holders after verification of a valid business purpose on the port. Most Florida seaports then issue a local port access card that grants various permissions to move about the port. In most cases, local port access cards are not recognized by other state ports. Thus, persons seeking access to multiple ports must obtain a TWIC card and multiple local cards, each with a separate cost paid by the applicant or the applicant's employer. The Port of Palm Beach is currently attempting to adopt the TWIC as its sole access credential. Palm Beach is quick to point out that such action is possible due to the port's smaller size and may not be possible at larger ports that have a need to limit access among diverse restricted areas on their ports.

The TWIC program has a long history of development problems since the program began in 2002, including most recently a further delay that has pushed back the final implementation deadline to April 15, 2009. The National Maritime Security Advisory Committee (NMSAC), which is chartered to advise the DHS Secretary on matters of maritime security, recently published a lengthy list of concerns about the TWIC program.³¹ The committee concluded, "Despite the fact that initial TWIC roll-out is already halfway complete in terms of estimated timeframe, only approximately 219,000 of the estimated 1.5 million potential TWIC holders, or just over 14%, have received their cards. Clearly, there are a number of issues that need to be addressed even this far into the process."³²

²⁸ National Drug Intelligence Center, "National Drug Threat Assessment 2008," October 2007.

²⁹ Stakeholders, at two of the four ports that Senate professional staff visited, anecdotally reported losing legitimate business to Texas Gulf Coast seaports due to a perceived stricter security environment at Florida seaports.

³⁰ The federal background check involves a name and fingerprint check through the federal National Crime Information Center (NCIC) database. Florida law also requires a fingerprint check. This check is conducted through the Florida Crime Information Center (FCIC) database and captures state offense information not always available in the federal system such as current outstanding warrant information. Further, FDLE has intelligence databases which include potential cargo theft suspects and potential gang members that are routinely searched during the seaport access check. Such local information is not available in the federal database.

³¹ National Maritime Security Advisory Committee, TWIC Working Group, "Discussion Items," as amended July 30, 2008.

³² Note: One of the committee's concerns was the fact that all of the security plans initially mandated by MTSA are now coming due for re-approval. The USCG will find it difficult to address TWIC compliance while simultaneously beginning the re-approval process.

While the TWIC card remained in development, Florida moved forward in parallel with a program that was designed with TWIC compatibility in mind. Section 311.125, F.S., mandated the establishment of a biometric credential known as the Florida Uniform Port Access Credential (FUPAC). Pilot development was completed and the system stood ready for implementation pending publication of TWIC standards. When the final TWIC standards were published the differences made TWIC and FUPAC compatibility difficult. Federal officials believed that the MTSA language specifically limited the Transportation Security Administration's (TSA) application of TWIC screening to terrorism related issues. Florida expressed a need for a broader screening application in order to carry on with its original focus on illicit drug trafficking, cargo theft, and money laundering. Credential disqualifying offense differences, differing criteria for granting waivers, and reluctance on the part of federal agencies to grant database access to screen applicants are chief among the factors causing TWIC and FUPAC to be considered incompatible. In addition, the TWIC is planned at some time in the future to become a true biometric credential but currently lacks that capability. However, the Governor's Office of Drug Control continues to make progress towards resolving these issues.

Seaport administrators favor adoption of the TWIC with continued use of local issue access cards. Chapter 311, F.S., currently mandates use of the FUPAC tied to a secure database in order to screen applicants according to statutory criteria. A goal of the FUPAC program has been to produce a single card that could be used statewide and replace all of the locally issued access cards. Stakeholders want a simplified system that is low cost and provides access to multiple seaports.

Options

An important question remains. Have ch. 311, F.S., in general and s. 311.12, F.S., in particular, had any documented effect on the financial viability of Florida's seaports? Senate professional staff assigned to this project lacked the expertise to properly conduct the detailed financial analysis of each of the ports necessary to answer this question. However, it should be the object of further consideration.

There are several options or possibly a combination of options that the Legislature could consider in order to address the issue of whether Florida's seaport security system is now redundant. These options include:

- Repeal s. 311.12, F.S.;
- Commission a follow-up study to the Camber Report;
- Examine and redefine Florida's role in seaport security oversight; or
- Consider the recommendation of the Camber Report as supported by the Fifteenth Statewide Grand Jury and create a seaport regulatory agency to oversee seaport operations in general and seaport security in particular.

Repeal s. 311.12, F.S.

Repealing s. 311.12, F.S., would simplify security administration at Florida's seaports and result in cost savings to the ports. However, such action would cede the state's responsibility for security oversight of Florida's seaports to the federal government. Providing oversight to ensure the safety and security of such critical infrastructure, which so many Floridians depend upon for their livelihood and which is vital to the state's economy, would appear to be a fundamental function of state government.³³

Further, the CBP has created several programs aimed at interdicting weapons of mass destruction and other contraband smuggling. Among these programs are the "24-hour Rule" which requires carriers to furnish container cargo information 24 hours prior to loading in foreign ports, evaluation of cargo information prior to its arrival at U.S. ports in order to identify high-risk shipments, non-intrusive inspection technology, and the C-TPAT program which pre-qualifies shipping industry participants for expedited cargo handling after

³³ The Florida Constitution states in its Preamble: "We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, insure domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution."

demonstrating a higher degree of security attainment. However, the GAO recently reported to Congress that the C-TPAT program has made improvements but CBP is unable to ensure that it is meeting its own standards or adequately assessing the effectiveness of the program.³⁴

GAO concerns regarding USCG port inspections have been noted previously in this report. In addition, the Office of Management and Budget rates the Coast Guard's Drug Interdiction Program as "Adequate." The rating of Adequate describes a program that "needs to set more ambitious goals, achieve better results, improve accountability or strengthen its management practices."³⁵

Commission a Follow-Up Study to the Camber Report

The Camber Report is almost ten years old and the environment which it studied has changed considerably. Systems, procedures, organizational partnerships, and technologies available today were not in consideration at the time the report was delivered. Further, a financial analysis of the impact of mandated security measures would be useful in determining the most efficient use of security resources. A follow-up study could be useful to the Legislature in setting future policy.

This option would have a fiscal impact.

Examine and Redefine Florida's Role in Regulating Seaport Security

The Legislature may wish to conduct its own in-depth examination of the state's future role in seaport security oversight. Such an examination could identify ways to reduce regulatory overlap while maintaining the state's interest in oversight of a key component of its economy and would likely lead to a revision of s. 311.12, F.S. This option recognizes that there has been a change in the seaport security environment since the creation of s. 311.12, F.S., and there is a need to improve the efficiency of the oversight process.

There are many possibilities for redefining the state's oversight role. For example, at one Senate professional staff site visit, a stakeholder highlighted the beneficial role played by the local Regional Domestic Security Task Force (RDSTF). Seven RDSTFs were created in 2001 to facilitate coordination of efforts aimed at preventing acts of terrorism. The RDSTFs include representatives from federal, state, and local government entities including port officials where appropriate, law enforcement, first responders, fire and health officials, emergency managers, and other representatives deemed appropriate to the mission of the task force. The RDSTFs have been successful in fostering cooperative partnerships and may have a possible role in port security oversight.

In addition, the Executive Director of FDLE recently instituted inspection program changes in recognition of the need to update the process. These changes include placing the Regional Special Agent in Charge, or his or her assistant, in the lead role of the port inspection team. In addition, a security official from another port and a representative from local law enforcement will join the inspection team to give additional depth to the team.

Exercising this option will be complex, time-consuming, and will have a cost. While the cost may be less than the previous option of commissioning a new study, Senate professional staff may not have appropriate technical expertise to accomplish the assessment. Each of Florida's seaports is unique. Finding common ground among them is sometimes a challenge that requires a detailed familiarity with the technical aspects of seaport operations.

Consider the Creation of a Seaport Regulatory Agency

Creation of a Seaport Regulatory Agency vested with the authority to regulate all Florida ports was recommended in the Camber Report and supported by the Fifteenth Statewide Grand Jury. Under the federal system, the COTP is granted authority to sanction a facility for failure to provide adequate security. This sanction may take the form of a monetary fine and closure of the facility until the deficiency is corrected. There is no such sanctioning

³⁴ Government Accountability Office, "Supply Chain Security – U. S. Customs and Border Protection Has Enhanced Its Partnership with Import Trade Sectors but Challenges Remain in Verifying Security Practices," GAO-08-240, April, 2008.

³⁵ Office of Management and Budget website: www.whitehouse.gov/omb/expectmore/summary/10000012.2007.html.

authority enumerated in s. 311.12, F.S. Adverse reports are delivered to the Governor and the Presiding Officers and it is left to the discretion of the Legislature to decide whether to take any action.

Creating such an agency could foster standardization and improved coordination of seaport security issues across the state. It could result in the consolidation of other entities such as the Florida Seaport Transportation and Economic Development Council, the Florida Seaport Environmental Management Committee and the Seaport Security Standards Advisory Council.

This option would require creation of an additional governmental entity and a major legislative revision. In addition, there would be possible unintended consequences, and a fiscal impact associated with implementation.

Senate Professional Staff Recommendation

Through the course of the project, it became increasingly clear that the seaport security environment has changed considerably since the original enactment of s. 311.12, F.S. Senate professional staff recommends that the Legislature undertake a review of this section of statute with a view towards revising the section by redefining the state's role in seaport security oversight and identifying procedures that will produce improved oversight efficiency. Senate professional staff believes that any such review will require certain technical expertise relating to seaport operations that may be beyond current professional staff capabilities. Skill-sets needed for such a review should include the capability to assess the impact of mandated seaport security requirements on the financial viability of Florida's public ports.