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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 1407 (PCB SA 02-14)
RELATING TO: Capitol Security
SPONSOR(S): Committee on State Administration and Representative Brummer

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION YEAS 4 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Current law provides that the Capitol Police provide security in state-owned property leased by agencies from the Department of Management Services. The Capitol Police is charged with securing property occupied by state agencies and is specifically directed to provide security in the Capitol, Historic Capitol, Senate Office Building and House Office Building.

The bill creates the State Security Force (SSF) as the successor agency to the Capitol Police. The SSF will provide and maintain security for occupants and visitors to state-owned leased buildings and property other than those buildings located within the Capitol Complex.

The bill also creates the Capitol Select Security Service (CSSS). The CSSS is an arm of both the legislative and executive branches of the state government. The CSSS is to secure and protect the occupants, visitors, and buildings of the Capitol Complex. The Complex comprises the Capitol, Historic Capitol, Senate Office Building, House Office Building, and the Knott, Pepper, and Holland buildings and the curtilage of each of these buildings, including the state-owned land and public streets adjacent to these buildings. The CSSS is to develop basic and enhanced security plans that provide for the security and protection of occupants and visitors to the Capitol Complex, subject to the approval of the Governor, President of the Senate, and Speaker of the House of Representatives.

The bill makes clear that the CSSS is to pay due deference in its security plan implementation to the execution of the constitutional duties of the Legislature and the authority of the presiding officers of the houses of the Legislature.

The bill directs the Office of Legislative Services to contract with an outside vendor for a security inventory.

The bill is effective upon becoming a law.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

This bill creates a new state security force limited to securing the occupants of and visitors to the buildings of the Capitol Complex.

B. PRESENT SITUATION:

Capitol Police

The Department of Management Services (DMS) is the state agency that provides general infrastructure organization and central services for the more than two dozen executive departments and the three branches of state government. Its principal duties involve administration of employee personnel, health and retirement benefits; the functional ownership of many state buildings including all of those specified in the Florida Facilities Pool; and centralized procurement and property management. DMS also oversees state parking, vehicle management and facility security. The responsibility of facility security is discharged through Chapter 281, F.S., with asset protection and capitol-area employee security assigned to the Division of Capitol Police.

The division concentrates most of its patrol staffing in the state capital area by virtue of the requirements in Chapter 281, F.S., with a specific security presence in four named buildings: the Capitol, Historic Capitol, Senate Office Building, and House Office Building. It also has a staffing complement in multi-occupancy state office buildings in other cities outside the capital.

After the events of September 2001, the department entered into a Memorandum of Agreement with the Department of Law Enforcement to operate the Capitol Police.

Merging Departments — Type Two Transfer

A type two transfer, defined in s. 20.06, Florida Statutes, controls in the situation where an agency, department, program, activity, function, unit, or subunit (entity) is merged into another agency or department. Under this type of agency transfer, the records, personnel, property and balance of appropriations, allocations, or other funds of the transferred entity are transferred intact to the recipient agency. The recipient agency may reorganize the transferred entity within the limitations prescribed by Chapter 20, Florida Statutes. Section 20.06, Florida Statutes, specifically provides that the administrative rules of the transferred entity remain in effect until specifically amended or repealed in the manner provided by law and that the recipient agency be substituted as the party of record in judicial or administrative proceedings.

C. EFFECT OF PROPOSED CHANGES:

The bill creates the State Security Force (SSF) as the successor agency to the Capitol Police. The SSF provides and maintains security for occupants and visitors to state-owned leased buildings and property other than those buildings located within the Capitol Complex.

The bill also creates the Capitol Select Security Service (CSSS). The CSSS is to secure and protect the occupants, visitors, and buildings of the Capitol Complex. The Complex comprises the Capitol, Historic Capitol, Senate Office Building, House Office Building, and the Knott, Pepper, and Holland buildings and the curtilage of each of these buildings, including the state-owned land and public streets adjacent to these buildings. The CSSS is to develop basic and enhanced security plans that provide for the security and protection of occupants and visitors to the Capitol Complex, subject to the approval of the Governor, President of the Senate and the Speaker of the House of Representatives.

The bill makes clear that the CSSS is to pay due deference in its security plan implementation to the execution of the constitutional duties of the Legislature and the authority of the presiding officers of the houses of the Legislature.

The bill directs the Office of Legislative Services to contract with an outside vendor for a security inventory.

The bill takes effect upon becoming law.

D. SECTION-BY-SECTION ANALYSIS:

Sections 3 – 10 revise current law applicable to the Capitol Police to provide for the powers and duties of its successor agency, the State Security force.

Sections 1 and 12 – 20 create the Capitol Select Security Service and provide for its powers and duties, as well as limitations on its powers and duties when those powers and duties would interfere with the constitutional duties of the Legislature.

Section 2 addresses the transfer issue; sections 21 – 22 correct cross references; and section 25 directs the Office of Legislative Services to contract for a security inventory.

Section 1. Creates s. 20.201(2)(d), F.S., to establish the Capitol Select Security Service as a program within the Department of Law Enforcement.

Section 2. Transfers by a type-two transfer the powers, duties and functions related to the provision of security within the Capitol Complex (defined in sections 3 and 12, below) of the Division of Capitol Police, Department of Management Services, to the Capitol Select Security Service, Department of Law Enforcement. The powers, duties, and functions related to securing other state-owned or leased buildings and property remain with the Department of Management Services and are placed with the State Security Force, the successor agency to the Capitol Police.

Section 3. Creates s. 281.01, F.S., to define the Capitol Complex area which includes the Capitol, Historic Capitol, Senate Office Building, House Office Building, and the Knott, Pepper, and Holland buildings and the curtilage of each of these buildings, including the state-owned land and public streets adjacent to these buildings.

Section 4. Creates s. 281.011, F.S., to limit the jurisdiction of the State Security Force (created in section 4, below) to areas outside the Capitol Complex.

Section 5. Amends s. 281.02, F.S., to create the State Security Force (SSF) as the successor agency to the Capitol Police. In addition to creating the SSF the section:

- Provides that it is the duty of SSF to provide security and protection for state officials, employees, and visitors to state-owned or leased premises and to maintain a reasonable degree of safety and security at these premises;
- Limits the authority of the SSF to those buildings not in the Capitol Complex, state universities, custodial institutions, the Governor's Mansions and the grounds thereof, and the Supreme Court;
- Clarifies that the SSF is to develop incident reporting plans, emergency procedures, and evacuation routes in the event of fire, security threats, incidents prompting a need for evacuation, acts of terrorism, or other disasters and to communicate those plans to the persons occupying state-owned or leased buildings;
- Authorizes the SSF to employ sworn officers and other non-sworn personnel;
- Authorizes the SSF to respond to all complaints of criminal activity or security threats in state-owned or leased buildings (except the Capitol Complex);
- Authorizes the SSF to enforce the rules of the Department of Management Services governing the regulation of traffic or parking on or at state-owned or leased buildings; and
- Authorizes the SSF to delegate all or part of its duties described in this section to any state agency occupying a state-owned or leased building or property.

In short, this section takes authority now vested in the Capitol Police and except where it would be applicable in the Capitol Complex, confers it upon the State Security Force.

Section 6. Amends s. 281.03, F.S., to provide that the State Security Force has authority to conduct traffic accident investigations and felony and misdemeanor investigations on state-owned or leased property. Felony matters may be turned over to an appropriate law enforcement agency for further investigation.

Section 7. Amends s. 281.04, F.S., to authorize the SFF to detain a person and deliver that person to the sheriff of the county in which the detention takes place.

Currently, officers in the Capitol Police have the authority to arrest persons in the course of their duties. To detain a person may in fact be legally construed as an arrest. This issue is a concern and is being further researched.

Section 8. Amends s. 281.05 to provide that State Troopers, Department of Law Enforcement agents and inspectors, and local public law enforcement officers are ex officio members of the State Security Force and when authorized by the SSF, may exercise the authority conferred upon the SSF on the grounds of state-owned or leased buildings or property.

Section 9. Amends s. 281.06, F.S., to authorize the State Security Force to contract with local public law enforcement agencies or licensed private security agencies to provide and maintain the security of state-owned or leased buildings or property.

Section 10. Amends s. 281.07, F.S., to provide that the Department of Management Services is to adopt rules governing administration, operation, and management of the State Security Force.

Section 11. Amends s. 281.08(1), F.S., to provide that the State Security Force has the authority to acquire and dispose of equipment and other material necessary for its operations. The Department of Management Services may prescribe the uniform and emblem to be worn by the officers of the State Security Force.

Removes s. 281.08(2), F.S., which made it unlawful for an unauthorized person to wear the uniform or emblem of the Capitol Police.

Section 12. Creates s. 943.60, F.S., to define that the Capitol Complex includes the Capitol, Historic Capitol, Senate Office Building, House Office Building, and the Knott, Pepper, and Holland buildings and the curtilage of each of these buildings, including the state-owned land and public streets adjacent to these buildings.

This language is identical to that which is found in s. 281.01, F.S., (section 3 of this bill).

Section 13. Creates s. 943.601, F.S., to provide a statement preserving legislative powers where the application of the powers and duties of the Capitol Select Security Service would interfere with the constitutional duties of the Legislature.

Provides that nothing in the bill limits the rights and powers of the Senate or House of Representatives or the officers of either body to direct or command the members or staff of the respective bodies to attend any meeting or enter any area of the Capitol Complex for legislative purposes. Also provides that the Capitol Select Security Force is to ensure the ability of members of the legislature to attend to legislative business without interference from any person or branch of government.

Section 14. Creates s. 943.61, F.S., to provide for the creation of the Capitol Select Security Service (CSSS), its powers and duties, and limitations on those powers and duties.

Subsection 1. The CSSS is created within the Department of Law Enforcement and serves as an arm of both the legislative and executive branches.

The primary responsibility of the CSSS is to ensure the continued operation of the government of the state of Florida by ensuring the security of state-wide elected officials, legislative members, and the employees of these elected officers and by ensuring their access to buildings and premises within the Capitol Complex.

The CSSS is also authorized to provide security to other state officials, employees, and visitors to the Capitol Complex and to maintain a reasonable degree of security while ensuring reasonable access to the Capitol Complex by these persons.

The bill provides that no assets, personnel, or resources of the CSSS can be taken from the service and no appropriation to the service reduced without the express approval of the Governor and the Legislative Budget Commission.

The CSSS has the following powers and duties:

- To develop a written operational plan for basic and enhanced security measures and actions for the Capitol Complex, in consultation with the Governor, Cabinet Officers, the Senate President and the Speaker of the House;
- To submit the plans and amendments thereto in writing to the Governor, President, and Speaker and not to implement these plans unless all three officers grant approval in writing.

The approval of each officer expires 60 days after the approving officer vacates office. The approval of the successor in office must be obtained for the continued operation of the plan. However, the bill as drafted does not provide for the written approval of the successor in office;

- To activate an enhanced security plan only upon the request of the Governor, Cabinet officer, Speaker or President and only for those offices occupied by the requesting officer;
- To limit the use on an unapproved emergency plan only upon the declaration by the Governor of an emergency situation that threatens the safety and security of the occupants of the Capitol Complex and then for only 15 days, provided that the plan does not substantially interfere with the ability of the legislative bodies to assemble for any constitutional purpose; and
- To ensure proper signage to inform and assist the occupants and visitors of the Capitol Complex in cooperating with the plan.

Subsection 2. The CSSS is to provide and maintain security for all property located in the Capitol Complex and consult with the State Fire Marshall regarding firesafety activities.

Subsection 3. The CSSS is to develop incident reporting plans, emergency procedures, and evacuation routes in the event of fire, security threats, incidents prompting a need for evacuation, acts of terrorism, or other disasters and communicate those plans to the occupants of and visitors to the Capitol Complex.

Subsection 4. The CSSS is authorized to employ sworn officers and other non-sworn personnel. Sworn officers are to receive specialized training in the prevention and response to acts of terrorism.

Subsection 5. The CSSS is to train officers and guards in fire prevention, firesafety, and emergency medical procedures.

The bill is not clear as to which group of officers and guards are to receive the training.

Subsection 6. The CSSS is authorized it to respond to all complaints of criminal activity or security threats in the Capitol Complex or against an state-wide elected officer, legislative member, or an employee of one those elected officers.

Subsection 7. Upon the request of the presiding officer of either house of the legislature, the executive director of the CSSS is to assign officers to protect a legislative member. The assignment is subject to the continued approval of the presiding officer. The presiding officer may also request the re-assignment of an officer operating on such an assignment.

Subsection 8. Provides for per diem and subsistence allowances pursuant to s. 112.061, F.S., for security personnel (not otherwise defined in the bill; the phrase should be amended to read officers) traveling with a legislative member outside of Tallahassee.

Subsection 9. The CSSS is authorizes to enforce the rules of the Department of Management Services governing the regulation of traffic or parking on or at state-owned or leased buildings. The CSSS is also authorized to impound illegally or wrongfully parked vehicles.

Subsection 10. The CSSS is authorized to adopt policies for the provision of security within the Capitol Complex. However, these policies must be adopted in writing and must be approved by the Governor, Speaker, and President prior to implementation. Additionally, the CSSS may not impose control over security for areas leased by a house of the legislature.

Subsection 11. The employees of the CSSS may not enter the chamber of either house without the specific permission of the presiding officer.

Subsection 12. That employees of the CSSS are without the power to detain a member of either house or to prevent any meeting of the Legislature, its staff or its committees without prior approval of the appropriate presiding officer.

A flush left paragraph in this section that provides a statement of legislative intent with regards to the Capitol Select Security Service. The CSSS is to serve as a specially trained security force for the Capitol Complex rather than a law enforcement agency. Its primary responsibility is to ensure the ability of state government officials to continue the operation of essential state governmental duties by ensuring the security and protection of the occupants of and visitors to the Capitol Complex. To accomplish its responsibility, the CSSS may detain persons for arrest by other law enforcement agencies.

Section 15. Creates s. 943.611, F.S., to provide for the appointment and responsibilities of the Executive Director of the Capitol Select Security Service. Provides that the head of the Department of Law Enforcement is to nominate, at least 7 days prior to the organizational session of the Legislature, an individual to serve as Executive Director of the CSSS. That person serves at the pleasure of the head of the department. That person must be approved by both houses of the Legislature no later than 30 days after adjournment sine die of the next session of the Legislature and pursuant to the rules of the respective houses.

The person may be discharged but is to serve until a successor has been nominated or the time for re-appointment has expired. A nominee may serve as an acting executive director until the time for approval has expired.

Section 16. Creates s. 943.62, F.S., to provide that the CSSS may conduct traffic accident investigations and felony and misdemeanor investigations on state-owned or leased property. Any matter may be turned over to the department's agents or inspectors or another appropriate law enforcement agency for further investigation.

Section 17. Creates s. 943.63, F.S., to authorize agents of the CSSS to detain a person and deliver that person to the sheriff of the county in which the detention takes place.

Currently, officers in the Capitol Police have the authority to arrest persons in the course of their duties.

Additionally, this section refers to the sworn personnel as agents which is inconsistent with the designation of the sworn personnel as officer throughout the rest of the bill.

Section 18. Creates s. 943.64, F.S., to provide that State Troopers, Department of Law Enforcement agents and inspectors, and local public law enforcement officers are ex officio members of the CSSS and when authorized by the CSSS, may exercise the authority conferred upon the CSSS by ss. 943.61 - .68, F.S.

Section 19. Creates s. 943.66, F.S., to provide the CSSS may enforce the rules of the Department of Management Services governing the Facilities Management Program and regulating traffic and parking on state-owned or leased buildings or property, if such rules are not in conflict with state law or county or municipal ordinances, and to carry out the provisions of ss. 43.61-.68, F.S.

Additionally, counties and municipalities may enact and enforce ordinances on the violation of traffic and parking rules provided for herein.

Section 20. Creates s. 943.67, to provide that the CSSS has the authority to acquire and dispose of equipment and other material necessary for its operations. The Department of Law Enforcement may prescribe the uniform and emblem to be worn by the officers of the Capitol Select Security Force.

Section 21. Section 281.20, F.S., is renumbered as s. 943.68, F.S. This section authorizes the Department of Law Enforcement to provide protective services to the Governor and his immediate family.

Section 22. Amends paragraph (c) of subsection (2) of s. 287.17, F.S.; to conform to the renumbering of s. 281.20, F.S., to s. 943.58, F.S.

Section 23. Amends paragraph (g) of subsection (2) of s. 288.816, F.S.; to conform to the renumbering of s. 281.20, F.S., to s. 943.68, F.S.

Section 25. Provides that the Office of Legislative Services is to contract with an outside vendor for a security inventory of facilities and personnel. This inventory will include information providing lists of the security options available, the proposed most efficient, cost-effective methods of providing security, and any other items related to security that the legislature should consider.

Section 25. Provides that the act takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill directs that the Office of Legislative Services contract with an outside vendor for a security inventory.

D. FISCAL COMMENTS:

Budget materials submitted for Fiscal Year 2003-2004 by the Department of Management Services indicate that the Division of Capitol Police currently has a force of 141.5 FTE's and an annual budget of \$6.2 million, about 95 percent of which is derived from state trust funds. Most of the trust amount is attributable to a square foot charge each agency pays in its lease payments for security services.

The 141.5 FTE's are assigned to the following functions:

- Policing state facilities, 119.5 FTE's;
- Criminal investigations, 3 FTE's;
- Criminal and fire prevention training, 4 FTE's;
- Executive direction, 7 FTE's; and
- Maintenance of the communications center, 8 FTE's.

As the bill is refined, a fiscal note can be developed that will explain how the two entities will charge for services. However, it would appear that by limiting the Capitol Select Security Service to the Capitol Complex, the state may avoid a problem addressing the security component of administrative costs reported by various agencies on various federal programs.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill provides for the Department of Law Enforcement to adopt rules to administer the provisions contained in this bill.

C. OTHER COMMENTS:

Issues Arising from the Bill as It Is Drafted

There remain issues to be addressed relating to the functional responsibilities of these security forces as well as functional relationships between the security forces and their parent departments. Inconsistent references within the bill also must be addressed.

The Department of Law Enforcement has represented to House staff that they will continue to work with the Legislature to resolve outstanding concerns,

Collective Bargaining Units

The affected employees in the DMS are represented by different collective bargaining organizations. The officers are represented by the International Union of Police Associations while the remainder are represented by the American Federation of State, County, and Municipal Employees. Due to the fact that the DMS officer personnel are not considered "special agents" they will not be incorporated within the FDLE collective bargaining unit of that name which is now represented by the Police Benevolent Association. The FDLE will have to engage in impact bargaining following transfer to adhere to any contractual rights the officers may wish to assert under the labor agreement.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its January 24, 2002, meeting, the Committee on State Administration adopted four amendments and reported the PCB favorably. The four amendments:

- Provide that for purposes of s. 281.02, F.S., which creates the State Security Force, the term "state-owned or state-leased buildings or property" shall not include state universities, the Capitol Complex, custodial institutions, the Governor's Mansion, and the Supreme Court;
- Remove an inadvertent reference to the agents and inspectors of the Department of Law Enforcement; and
- Move, within s. 943.61, F.S., which creates the Capitol Select Security Service, limitations on the powers of the Service from a paragraph providing for a statement of legislative intent to separate subsections within that section in order to effectuate those limitations.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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