

# 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/SB 1144

SPONSOR: Governmental Oversight and Productivity Committee and Senator Garcia

SUBJECT: Governmental Organization

DATE: February 12, 2002 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
2.	<u>                    </u>	<u>                    </u>	<u>CJ</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>APJ</u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

## I. Summary:

The bill provides an intact, or Type One transfer, of the Division of Capitol Police in the Department of Management Services (DMS) to the Florida Department of Law Enforcement (FDLE). The bill further provides for the development of basic and enhanced security plans for named buildings in the Capitol Complex.

The bill amends s. 20.201 and further amends, transfers and renumbers ss. 281.02 as 943.51; 281.03 as 943.52; 281.04 as 943.53; 281.05 as 943.54; 281.06 as 943.55; 281.07 as 943.56; 281.08 as 943.57; 281.20 as 943.58; and 281.301 as 943.59, F.S.

The bill is effective upon becoming a law.

## II. Present Situation:

The 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; centralized procurement and property management, and the operation of a statewide telecommunications voice and data transmission network. The agency also oversees state parking vehicle management and facility security. It discharges this latter responsibility through ch. 281, F. S., and assigns asset protection and Capitol-area employee security to its Division of Capitol Police.

The division concentrates most of its patrol staffing in the state capital area by virtue of the requirements in ch. 281, F.S., with a specific security presence in five named buildings:

Governor's Mansion, Capitol, Historic Capitol, Senate, and House of Representatives. It also has a staffing complement in multi-occupancy state office buildings in other cities outside the capital. About one-half of occupied state agency office space is in leased premises and division presence is not as intense in such situations. Chapter 281, F.S., provides that the division may procure by contract supplemental services in such circumstances. As a practical matter, state agencies procure supplemental security services as needed using their own budgeted funds. Even in the state capital area the actual deployment is concentrated more heavily in facilities in the Florida Facilities Pool, a bond funding mechanism for state agency office space. The pool, however, contains no covenants requiring a security presence.

Following the terrorist attacks of September 11, 2001, the Governor signed an Executive Order transferring the supervision of the division to the Department of Law Enforcement.

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

**Section 1.** Section 20.201, F.S., is amended to create a Division of Capitol Police in the FDLE.

**Section 2.** Section 281.02, F.S., is renumbered as s. 943.51, F.S., and is further amended to provide for the location of the existing Division of Capitol Police in the FDLE rather than in the DMS. This section also provides for consultation among the DMS, FDLE, and the Senate and House of Representatives on fire safety and security issues in the Capitol Complex. The Knott, Pepper, and Holland Buildings are specifically added to the existing list of named builds for security considerations. Security plans are to take into consideration state-owned and state-leased buildings and an evaluation of potential security threats. The FDLE is given the authority to employ agents as well as officers but whose duties and qualifications will be distinct.

**Section 3.** Section 281.03, F.S., is renumbered as s. 943.52, F.S., and is further amended to provide for agency transfer and the distinction between agents and officers regarding investigations undertaken by the Division of Capitol Police.

**Section 4.** Section 281.04, F.S., is transferred and renumbered as s. 943.53, F.S., and is further amended to provide for agency and personnel nomenclature changes effected by the agency transfer as they relate to arrests.

**Section 5.** Section 281.05, F.S., is transferred and renumbered as s. 943.54, F.S., and is further amended to provide for agency and personnel nomenclature changes effected by the agency transfer as they relate to the designation of ex-officio agents.

**Section 6.** Section 281.06, F.S., is transferred and renumbered as s. 943.55, F.S., and is further amended to provide for agency nomenclature changes effected by the agency transfer as they relate to contracts with units of local law enforcement or private security agencies.

**Section 7.** Section 281.07, F.S., is transferred and renumbered as s. 943.56, F.S., and is further amended to provide for agency nomenclature and cross-reference changes as they affect agency rulemaking and traffic regulation.

**Section 8.** Section 281.08, F.S., is transferred and renumbered as s. 943.57, F.S., and is further amended to provide for agency nomenclature and cross-reference changes and to delete the separate criminal penalty for unauthorized use of a Capitol police officer emblem or impersonation of such an officer. The misdemeanor penalty is effectively supplanted by another criminal penalty statute making any such violation a felony.

**Section 9.** Section 281.20, F.S., is transferred and renumbered as s. 943.58, F.S., and is further amended to provide nomenclature changes and to create a two-tiered security plan for the Capitol Complex. The Division of Capitol Police will develop a basic plan in consultation and with the approval of the Governor, President of the Senate, and Speaker of the House of Representatives. An additional enhanced security plan will be developed in consultation with and with the approval of the same parties for specific application to the particular facilities and circumstances of the respective organizations they lead. The Division of Capitol Police will implement the basic security procedures and will activate the enhanced security procedures upon the request of any of the parties.

**Section 10.** Section 281.301, F.S., is transferred and renumbered as s. 943.59, F.S., and is further amended to provide for a transfer of confidentiality for security systems from the DMS to the FDLE.

**Section 11.** The Division of Capitol Police is transferred from the DMS to the FDLE by an intact, Type One transfer as provided in s. 20.06, F.S. Each transferred employee must meet the drug test and fingerprint qualifications of the successor organization and adhere to employment criteria similar to those of positions held prior to transfer by July 1, 2002.

**Section 12.** This act shall take effect upon becoming a law.

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

**A. Municipality/County Mandates Restrictions:**

None. Chapter 281, F.S., gives the division the ability to negotiate enforcement agreements with units of local government. That authority would transfer to the successor organization.

**B. Public Records/Open Meetings Issues:**

None. The transfer of security confidentiality from the Department of Management Services to the Department of Law Enforcement is done horizontally and does not further restrict public access or close records. The division is already a law enforcement agency.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

The lease expense to a state agency tenant in a facilities pool building includes a security assessment slightly in excess of \$1.00 per square foot. Any subsequent decision to seek a lump sum appropriation for security operations that is separate from this square foot assessment will make state buildings more attractive for agencies now in privately leased locations. This could force either a renegotiation of the lease over a different term to the advantage of the state agency tenant or the invocation of the exclusive right to cancel the lease with six months prior notice should a state agency seek to relocate to a less expensive state facility location with available space. The right to cancel a lease in such circumstances, along with a cancellation right subject to appropriated funds, is a standard condition in each state lease agreement.

**C. Government Sector Impact:**

The bill provides for an intact transfer of the current division along with its appropriations pursuant to s. 20.06, F.S. The successor organization retains the right to review each of the transferred employees for employment subject to adherence to its own employment criteria. Those not qualified would be subject to dismissal, or presumably, be afforded other employment opportunities outside of their current employment field.

The DMS division has a force of 141.5 FTEs 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. Policing state facilities obligates 119.5 of the FTEs. Three positions are assigned to criminal investigations, 4 FTEs to criminal and fire prevention training, 7 FTEs to executive direction, and the remaining 8 FTEs to maintenance of the communications center.

Depending upon how the cost of security operations post-transfer is to be financially recognized there could be some impact upon the indirect cost recovery attributable to federal programs. These financial considerations exist separate and apart from the decision to transfer Capitol Police from one agency to another. The present method of assessing a per square foot charge for security as part of debt service on the capitol facilities pool distributes these costs across all building occupants. For agencies with large billable amounts of federal or state trust fund reimbursement the net general revenue cost per occupied square foot is minimal as the debt service is, for all intents and purposes, underwritten by the granting agency or specified trust fund. The bond covenants do not require a security component, only a financial coverage provision providing reserves in defined financial circumstances. A lump sum appropriation, should that be chosen, would require some form of charge back to security posts that are

building specific and would change how indirect costs are assessed for recovery purposes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The affected employees in the DMS are represented by different collective bargaining organizations. The division sworn officers are represented by the International Union of Police Associations while the remaining non-sworn agents are represented by the American Federation of State, County, and Municipal Employees. Because the DMS officer personnel are not considered “special agents” they will not be incorporated with the FLDE collective bargaining unit of that name 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 affected employees may wish to assert under the labor agreement then in effect.

**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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