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# **Transportation & Highway Safety Subcommittee**

**Tuesday, March 15, 2011  
12:30 PM - 2:30 PM  
306 HOB**

**Dean Cannon  
Speaker**

**Brad Drake  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Transportation & Highway Safety Subcommittee

**Start Date and Time:** Tuesday, March 15, 2011 12:30 pm

**End Date and Time:** Tuesday, March 15, 2011 02:30 pm

**Location:** 306 HOB

**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 283 Seaport Security by Young

HB 4183 Brevard County Expressway Authority Law by Nelson

PCS for HB 601 -- Road and Bridge Designations

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Monday, March 14, 2011.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, March 14, 2011.

**NOTICE FINALIZED on 03/11/2011 16:21 by Manning.Karen**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 283 Seaport Security  
**SPONSOR(S):** Young and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 524

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>AS</i>	Brown <i>PLB</i>
2) Criminal Justice Subcommittee			
3) Transportation & Economic Development Appropriations Subcommittee			
4) Economic Affairs Committee			

**SUMMARY ANALYSIS**

In 2000, based on issues related to criminal activity in Florida's seaports, the Legislature created s. 311.12, F.S., containing statewide minimum seaport security standards. Following the September 11, 2001, terrorist attacks, Congress enacted federal seaport security requirements. The state security standards have been amended several times since enactment, and there are instances in which the state standards may conflict, be duplicative, or be redundant to federal standards. HB 283 makes the following changes to the state's seaport security laws; federal requirements and standards will remain in place:

- Repeals the statewide minimum seaport security standards.
- Provides seaports may implement security standards more stringent than the federal standards.
- Removes the authority for FDLE to exempt all or part of a seaport from the state's seaport security requirements, if FDLE determines that it is not vulnerable to criminal activity or terrorism.
- Revises the requirements for seaports to update their security plans, consistent with federal requirements.
- Deletes the Access Eligibility Reporting System in the Florida Department of Law Enforcement (FDLE).
- Prohibits seaports from charging a fee for an access control credential in addition to the fee for the Federal Transportation Worker Identification Credential (TWIC), except for a seaport specific access credential, where a seaport may charge a fee no greater than its administrative cost to produce and issue the credential.
- Removes the state criminal history screening and the state specific disqualifying offenses for working in a seaport.
- Removes the ability for the Office of Drug Control and FDLE to waive state-specific seaport security requirements.
- Repeals the Seaport Security Standards Advisory Council.

FDLE will see a decrease in revenue due to no longer operating the access eligibility reporting system and state background checks no longer being required. However, FDLE will no longer be required to maintain the system.

Seaports, port tenants, and port employees should see a reduction in costs due to the elimination of the state's seaport security requirements.

The bill has an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Florida law requires public seaports to conform to statewide minimum security standards.<sup>1</sup> Through inspections, the Florida Department of Law Enforcement (FDLE) has the primary responsibility for determining whether each seaport is in conformity with these standards. Federal law requires seaports to comply with security plans which are reviewed and approved by the United States Coast Guard (USCG).

Florida's seaports represent an important component of the state's economic infrastructure. The Florida Ports Council estimates that waterborne international trade moving through Florida's seaports was valued at \$56.9 billion in 2009, which represented 55 percent of Florida's \$103 billion total international trade.<sup>2</sup> Because of the ports' importance to the economy of Florida, the 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<sup>3</sup> are regulated under ch. 311, 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),<sup>4</sup> the Security and Accountability of Every Port Act (SAFE Port Act)<sup>5</sup>, and the Code of Federal Regulations (CFR).<sup>6</sup> In addition, provisions of international treaties such as the Safety of Life at Sea (SOLAS), which protects the merchant ships, have been incorporated within the CFR in fulfillment of treaty obligations that affect seaport security at U.S. and foreign ports.

##### Statewide Minimum Seaport Security Standards

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.<sup>7</sup> 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.<sup>8</sup> The task force provided a number of recommendations including designating a state agency responsible for seaport and airport security and described the then current seaport security situation by saying:

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<sup>1</sup> Section 311.12, F.S.

<sup>2</sup> Florida Department of Transportation and Florida Ports Council, "Florida Seaport Fast Facts," October 1, 2011. Available at: <http://www.flaports.org/Assets/10-1-10%20FastFacts%20Seaports%20nj1%20revised%5B1%5D.pdf> (March 10, 2011).

<sup>3</sup> These ports are listed in s. 311.09(1), F.S., and 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.

<sup>4</sup> Public Law (P.L.) 107-295, 116 Stat. 2064 (2002).

<sup>5</sup> P.L. 109-347, 120 Stat. 1884 (2006).

<sup>6</sup> Principally 33 CFR, Parts 101 – 106 as they relate to various aspects of vessel and port security.

<sup>7</sup> Legislative Task Force on Illicit Money Laundering, "Money Laundering in Florida: Report of the Legislative Task Force", November 1999.

<sup>8</sup> Ibid, p. 18.

“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.”<sup>9</sup>

Second, the Governor’s Office of Drug Control<sup>10</sup> commissioned a Statewide Security Assessment of Florida Seaports. The report, which came to be known as the Camber Report,<sup>11</sup> concluded that there was no supervisory agency with oversight of 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.”<sup>12</sup> 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.<sup>13</sup>

The 2000 Legislature passed CS/CS/CS/SB 1258.<sup>14</sup> 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 public ports;
- Establishment of a fingerprint-based criminal history check of current employees and future applicants for employment at Florida’s seaports; and
- Directed 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.

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<sup>9</sup> Ibid, p. 46.

<sup>10</sup> The Governor’s Office recently eliminated the Office of Drug Control.

<sup>11</sup> Camber Corporation for the Office of Drug Control, Executive Office of the Governor, “Statewide Security Assessment of Florida Seaports,” September 2000.

<sup>12</sup> Fifteenth Statewide Grand Jury Report, “An Analysis of Florida’s Drug Control Efforts,” December 14, 2000.

<sup>13</sup> Ibid.

<sup>14</sup> Ch. 2000-360, Laws of Florida (L.O.F.).

Section 311.12, F.S., was amended during the 2001 Legislative Session to incorporate, by reference, the seaport security standards proposed in the Camber Report.<sup>15</sup> These standards form the basis for FDLE's current seaport security inspection program. The statewide minimum security standards proposed in the Camber Report include prescriptive regulations on ID badges, access gates and gate houses, designated parking, fencing, lighting, signage, locks and keys, law enforcement presence, cargo processing, storage of loose cargo, high value cargo, and cruise operations security.

#### Post-9/11 Federal Seaport Security Standards

Prior to 9/11, there was no comprehensive federal law relating to seaport security. The MTSA was enacted in November 2002<sup>16</sup> and the USCG subsequently adopted regulations to implement the provisions of MTSA.<sup>17</sup> The MTSA laid out the federal structure for defending U.S. ports against acts of terrorism. In passing MTSA, Congress set forth direction for anti-terrorism activities but also recognized in its finding 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 card 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.

Title 33 CFR provides for review and approval of Facility Security Plans<sup>18</sup> by the Captain of the Port responsible for each seaport area. The USCG also acknowledged Presidential Executive Order 13132 regarding the principle of Federalism and preemption of state law in drafting MTSA rules.<sup>19</sup> 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.<sup>20</sup>

#### Port Access Identification Credentials

The Florida Legislature has continued to introduce improvements to Florida's seaport security policy. The Legislature addressed the issue of a uniform port access credential during the 2003 session. The transportation industry expressed a desire for a single access credential that could be used statewide to facilitate seaport access. As a result, a Florida Uniform Port Access Credential (FUPAC) was provided for in s. 311.125, F.S. Section 311.125, F.S., required that each port subject to statewide minimum security standards in Chapter 311, F.S., use FUPAC by July 1, 2004. No FUPAC cards were ever issued and this section was repealed in 2009.

At the same time, the federal government attempted to develop its own credential known as the Transportation Worker Identification Credential (TWIC). FUPAC cards were not issued because state officials were working with TSA to consolidate the FUPAC and TWIC into one port access card. In lieu of a FUPAC, individual ports conducted national and state criminal background checks on each applicant who requires access to port facilities. The same disqualifying offenses that would prevent an applicant from being issued a FUPAC also disqualified the applicant from receiving a port specific credential; creating a de facto FUPAC.

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<sup>15</sup> Ch. 2001-112, L.O.F.

<sup>16</sup> The Maritime Transportation Security Act of 2002 (P.L. 107-295 of November 25, 2002).

<sup>17</sup> MTSA is implemented by Title 33 CFR, Parts 101-106 which are administered by the USCG.

<sup>18</sup> 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.

<sup>19</sup> Federal Register, Vol. 68, No. 204, Wednesday, October 22, 2003, p. 60468.

<sup>20</sup> Presidential Executive Order 13132, "Federalism," August 4, 1999.

The federal TWIC is being deployed in two phases. Phase I, the current deployment, provides for the issuance of credentials to be used as photo identification cards only. Phase II, which has been delayed indefinitely due to contract issues with federal vendors, would provide for fully interactive usage of the card, including biometric reader capabilities. There is no known target date for full implementation of the biometric capability. On March 27, 2009, the U.S. Coast Guard, Department of Homeland Security, released an Advanced Notice of Proposed Rulemaking to discuss "... preliminary thoughts on potential requirements for owners and operators of certain vessels and facilities...for use of electronic readers designed to work with [TWIC] as an access control measure."<sup>21</sup>

### Criminal History Checks

The 2000 legislation established the requirement for a fingerprint-based criminal history check of current employees and future applicants for employment at Florida's seaports. This law was further amended in 2001 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 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.

After the enactment of the MTSA, the requirement was established for seaport employees and other persons seeking unescorted access to Florida's seaport to obtain a TWIC. The TWIC requires the applicant to be fingerprinted and a background check to be performed by the FBI prior to its issuance.

A 2010 assessment of seaport security in Florida noted that Florida is believed to be the only state that requires both a federal and a state background check.<sup>22</sup>

### Seaport Access Eligibility Reporting System

In 2009, the Florida Legislature appropriated \$1 million in federal stimulus funding to FDLE to develop the Seaport Eligibility System (SES) required by Chapter 2009-171, L.O.F. The SES went live on July 12, 2010, and now allows seaports to share the results of a criminal history check and the current status of state eligibility for access to secure and restricted areas of each port. FDLE asserts that the use of the SES has substantially reduced the costs to seaport workers by eliminating duplicative criminal history fees for workers that apply for access at more than one port. Previously, the applicants had to undergo separate background checks for access to each of the ports. The system also allows for retention of fingerprints and arrest notifications to the ports, therefore, eliminating the need for annual state criminal history checks.<sup>23</sup>

According to FDLE, there are approximately 36,865 port workers enrolled in the Seaport Eligibility System, and of those, approximately 24,486 are TWIC holders. The remaining 12,379 workers do not have a TWIC and are not subject to a federal background check under MTSA rules.<sup>24</sup>

### TranSystems Report

In February 2010, TranSystems issued a Florida Seaport Security Assessment which was prepared for the Florida Office of Drug Control. Some of the recommendations that the report provided were:

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<sup>21</sup> Federal Register, Vol. 74, No. 58, March 27, 2009, at page 13360.

<sup>22</sup> TranSystems Corporation for the Office of Drug Control, Executive Office of the Governor, "TranSystems Florida Seaport Security Assessment 2010". February 2010. Available at: [http://www.fdle.state.fl.us/Content/getdoc/2902b533-5d31-4876-9ad6-1cb2a01a2c65/100409\\_Florida\\_Seaports\\_SecurityAssessment\\_Report.aspx](http://www.fdle.state.fl.us/Content/getdoc/2902b533-5d31-4876-9ad6-1cb2a01a2c65/100409_Florida_Seaports_SecurityAssessment_Report.aspx)

<sup>23</sup> Florida Department of Law Enforcement, "Frequently Asked Questions: Seaport Security." January 2011.

<sup>24</sup> Correspondence with FDLE, March 8, 2011.



- Transfer the sole responsibility for security standards, plans, practices, and audits to the U.S. Coast Guard.
- Re-task FDLE with the responsibility to develop port-specific threat intelligence for use by seaport security directors and eliminate FDLE's compliance inspection responsibilities.
- Modify the membership, meeting, and report requirements for the Seaport Security Standards Advisory Committee.
- Eliminate prescribed security standards and incorporate performance and risk-based security standards.
- Eliminate the state criminal background checks for those requesting access to restricted areas within the seaport if they have undergone the FBI-conducted background check and been issued a TWIC.
- Authorize seaports to issue a port-specific identification badge for a specific port and stipulate that it will be used in conjunction with the federal TWIC.
- Eliminate the requirement for on-site sworn law enforcement presence at the ports.<sup>25</sup>

Following the issuance of the report, the Office of Drug Control responded that "the study echoed many of the same unfounded grievances concerning security inspections the ports have voiced since 2001, but failed to provide any recommended improvements to seaport security," and that the study was strongly biased toward the ports without balancing security needs. The letter points out that the study recommends that security responsibility be transferred to the Coast Guard using the less stringent federal standards. The letter argues that complying with the standards in state law "has caused no discernable economic hardship for the ports, nor is there any substantial evidence that conforming to s. 311.12 has caused a loss of business to non-Florida seaports. . . .FDLE reports that seaports have seen significant decreases in cargo theft and pilfering."<sup>26</sup>

#### Differences between Federal and State Standards

There are some differences between the federal security standards and the existing state security standards. First, the state standards contain some specific requirements such as minimum lighting standards and fence height and require seaports to employ sworn law enforcement officers. The federal government uses flexible standards based on risk. Additionally, state law requires a state background check on both TWIC holders and employees who are not required to hold a TWIC.

There are some crimes that disqualify persons from working in Florida ports, which would not prohibit that person from obtaining a TWIC from the Federal government. These crimes include dealing in stolen property, manslaughter, burglary, aggravated assault, aggravated battery, aggravated stalking, any other violent felony, using a weapon in the commission of a felony, and felony theft.

Overall, the seaport security environment has changed significantly since 2001. The federal government has introduced numerous programs and initiatives to address the threat of terrorism against the nation's seaports. Florida recognizes the threat of terrorism and has adapted its seaport security policy to include the threat of terrorism in addition to its original efforts to combat drug trafficking, money laundering, and cargo theft on its seaports.

<sup>25</sup> *TransSystems Florid Seaport Security Assessment 2010*, Contract No. 10-DS-20-14-00-22-087, Prepared for: Florida Office of Drug Control, February 2010.

<sup>26</sup> Letter from Bruce D. Grant, Direct, Florida Office of Drug Control, to Larry Cretul, Speaker, Florida House of Representatives. March 4, 2010.

## Proposed Changes

Florida is believed to be the only state with its own seaport security standards in addition to the federal standards. Florida's law only applies to public seaports and does not apply to businesses on the Miami River or other private seaport or cargo terminals, which may be only a few yards from the public seaport. The state seaport security standards are codified in s. 311.12, F.S., and the bill makes significant changes to this section. For ease of understanding, the analysis is arranged by topic with a brief explanation of the current law followed by the proposed change.

## Statewide Minimum Security Standards

The current statewide minimum security standards were incorporated into statute by reference from the 2000 Camber Report commissioned by the Governor's Office of Drug Control. Current law allows a seaport to implement security measures that are more stringent, more extensive, or supplemental to the minimum security standards. Additionally, the provisions of s. 790.251, F.S.,<sup>27</sup> are not superseded, preempted, or otherwise modified in any way by seaport security statutes.

The bill deletes the statewide minimum security standards, but authorizes a seaport to implement security measures that are more stringent, more extensive, or supplemental to the applicable federal security regulations.<sup>28</sup>

## Exemption from Security Requirements

Current law allows FDLE to exempt all or part of a seaport from the security requirements in s. 311.12, F.S., if FDLE determines that activity associated with the use of the seaport is not vulnerable to criminal activity or terrorism.

Given the elimination of the statewide seaport security standards as explained above, the bill removes the authority for FDLE to exempt all or part of a seaport from those standards.

## Security Plans

Current law requires each seaport to adopt and maintain a security plan, which must be revised every five years to ensure compliance with the minimum security standards. The law further provides that each adopted or revised security plan must be reviewed and approved by the Office of Drug Control and FDLE to ensure compliance with the applicable federal security assessment requirements and must jointly submit a written review to the U.S. Coast Guard, the Regional Domestic Security Task Force, and the Domestic Security Oversight Council.

The bill deletes the requirement for each seaport to update and revise its security plan every five years, and instead requires periodic revisions to the security plan to ensure compliance with applicable federal security regulations. The bill also deletes the requirement for FDLE and the Office of Drug Control to review an adopted or revised security plan.

## Secure and Restricted Areas

Current law requires each seaport to clearly designate in seaport security plans and identify with markers on the premises all secure and restricted areas as defined by the U.S. Department of Homeland Security. Further, certain areas of a seaport are required to be protected from the most probable and credible terrorist threat to human life. The law also requires certain notices concerning the prohibition of concealed weapons and other contraband material. It also allows the temporary designation of a secure and restricted area during a period of high terrorist alert.

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<sup>27</sup> Section 790.251, F.S., relates to the right to keep and bear arms in motor vehicles for self-defense and other lawful purposes.

<sup>28</sup> 33 C.F.R. s. 105.305

The bill deletes the requirement for a seaport's security plan to set forth conditions to be imposed on persons who have access to secure and restricted areas of a seaport. It also removes a requirement that areas of a seaport with a potential human occupancy of 50 or more persons or any cruise terminal must be protected from the most probable and credible terrorist threat to human life. However, federal rules regarding passenger and ferry facilities and cruise ship terminals will remain in effect.<sup>29</sup>

#### Access Eligibility Reporting System

Current law requires FDLE to implement and administer a seaport access eligibility reporting system. The law identifies minimum capabilities the system must employ, which include:

- A centralized, secure method of collecting and maintaining finger-prints, other bio-metric data, or other means of confirming the identity of persons authorized to enter a secure or restricted area of a seaport;
- A methodology for receiving from and transmitting information to each seaport regarding a person's authority to enter a secure or restricted area of the seaport;
- A means for receiving prompt notification from a seaport when a person's authorization to enter a secure or restricted area of a seaport has been suspended or revoked; and
- A means to communicate to seaports when a person's authorization to enter a secure or restricted area of a seaport has been suspended or revoked.

Each seaport is responsible for granting, modifying, restricting, or denying access to secure and restricted areas to seaport employees and others. Based upon an individual's criminal history check, each seaport may determine specific access eligibility for that person. Upon determining that a person is eligible to enter a secure and restricted area of a port, the seaport shall, within three business days, report such determination to FDLE for inclusion in the system.

This system can be used to determine who is authorized to work on the ports and the ports can utilize the database to determine if an individual has been processed by another seaport. This database can also be used to notify seaports if anyone authorized to work on the port has been arrested in Florida. However it does not include federal charges and denial of access is only authorized for convictions.

On a daily basis, the TSA updates its list of canceled TWIC cards. The list includes arrests for serious federal crimes and threat information from domestic and international databases. However, it does not include state arrests.

FDLE is authorized to collect a \$50 fee to cover the initial costs for entering an individual into the system and an additional \$50 fee every five years thereafter to coincide with the issuance of the TWIC.<sup>30</sup>

The bill deletes the requirement for FDLE to administer the Access Eligibility Reporting System.

#### Access to Secure and Restricted Areas on Seaports

Current law requires that a person seeking authorization for unescorted access to secure and restricted areas of a seaport must possess a TWIC and also execute an affidavit that indicates the following:

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<sup>29</sup> 33 C.F.R. s. 105.285 provides additional security requirements for passenger and ferry facilities. 33 C.F.R. s. 105.290 provides additional security requirements for cruise ship terminals.

<sup>30</sup> FDLE currently collects the fees authorized for the administration of the Access Eligibility Reporting System.

- The TWIC is currently valid and in full force and effect;
- The TWIC was not received through the waiver process for disqualifying criminal history allowed by Federal law; and
- The applicant has not been convicted of any state-designated disqualifying felony offense.

FDLE is required to establish a waiver process for a person who has been denied employment by a seaport or denied unescorted access to secure or restricted areas who:

- Does not have a TWIC,
- Obtained a TWIC through the federal waiver process, or
- Is found to be unqualified due to state disqualifying offenses.

The bill prohibits a seaport from charging a fee for the administration or production of an access control credential that requires a fingerprint-based background check, beyond the fee for the federal TWIC. However, the bill authorizes a seaport to issue its own seaport-specific access credential and to charge a fee that is no greater than the actual administrative costs for the production and issuance of the credential.

The bill deletes the requirement for a TWIC holder to execute an affidavit when seeking authorization for unescorted access to secure and restricted areas of a seaport. It also deletes a reporting requirement to FDLE regarding grants of access, to conform to the removal of the access eligibility reporting system.

#### Criminal History Checks

Current law requires that a fingerprint-based criminal history check must be performed on employee applicants, current employees, and other persons authorized to regularly enter a secure or restricted area. The statutes also include a list of disqualifying offenses that would preclude an individual from gaining employment or unescorted access.

The bill deletes the requirement for seaport employee applicants, current employees, and other authorized persons to submit to a fingerprint-based state criminal history check. The bill also removes the authority for FDLE and each seaport to establish waiver procedures or to grant immediate temporary waivers to allow unescorted access to a seaport.

#### Waiver from Security Requirements

Current law permits the Office of Drug Control and FDLE to modify or waive any physical facility requirement contained in the minimum security standards upon a determination that the purpose of the standards have been reasonably met or exceeded at a specific seaport.

In light of the bill's removal of the statewide security standards, the bill removes the authority of FDLE and the Office of Drug Control to waive a physical facility requirement or other requirements contained in the minimum security standards upon a determination that the purposes of the standards have been reasonably met or exceeded by the seaport requesting the waiver.

#### Inspections

Current law requires FDLE, or an entity it designates, to conduct at least one annual unannounced inspection of each seaport to determine whether the seaport is meeting the statewide minimum security standards, to identify seaport security changes or improvements needed, and to submit the inspection

report to the Domestic Security Oversight Council.<sup>31</sup> Seaports may request that the Domestic Security Oversight Council review the findings of FDLE's report, if the seaport disputes those findings.

The bill deletes the requirement for FDLE, or an entity it designates, to conduct an annual unannounced security inspection of each seaport to determine if it meets the state's seaport security standards. However, the bill provides that FDLE, or an entity it designates, may conduct unannounced inspections to determine whether a seaport is meeting applicable federal seaport security regulations.

#### Reports

Current law requires FDLE, in consultation with Office of Drug Control, to annually complete a report indicating the observations and findings of all reviews, inspections, or other operations relating to the seaports conducted for the year.

The bill removes consultation with the Office of Drug Control.

#### Funding

Current law authorizes the Office of Drug Control, FDLE, and the Florida Seaport Transportation and Economic Development Council to mutually determine the allocation of funding for security project needs.

The bill removes the Office of Drug Control as an entity that participates in determining the allocation of funding for seaport security projects.

#### Seaport Security Standards Advisory Council

Section 311.115, F.S., creates the Seaport Security Standards Advisory Council under the Office of Drug Control. The council consists of 14 unpaid council members who represent a wide range of interests as it relates to the security of Florida's seaports. The council convenes at least every 4 years to review the minimum security standards referenced in s. 311.12(1), F.S., for applicability to and effectiveness in combating current narcotics and terrorism threats to Florida's seaports. The recommendations and findings of the council must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill repeals the Seaport Security Standards Advisory Council.

The bill amends ss. 311.121(2), 311.123(1), and 311.124(1), F.S. to conform to other changes in the bill.

The bill has an effective date of July 1, 2011.

#### B. SECTION DIRECTORY:

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|-----------|---|
| Section 1 | Amends s. 311.12, F.S., relating to seaport security.   |
| Section 2 | Amends s. 311.121, F.S., relating to qualifications, training, and certification of licensed security officers at Florida's seaports. |
| Section 3 | Amends s. 311.123, F.S., relating to maritime domain security awareness training program.   |
| Section 4 | Repeals s. 311.115, F.S., relating to the Seaport Security Standards Advisory Council.  |

<sup>31</sup> The Domestic Security Oversight Council is created in s. 943.0313, F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

According to FDLE, the SES went live in July 2010. Although it was authorized to begin collecting fees for enrollment in Fiscal Year 2010-2011, FDLE provided the system at no cost for the first year of operation. FDLE negotiated with the seaports to postpone the collection of the fees until the system's billing component was completed according to schedule in the spring of 2011.

The elimination of the requirement for the state background check will result in a decrease in trust fund revenues to FDLE of \$521,880. These revenues are used to support the State's criminal history system.

#### 2. Expenditures:

FDLE used \$1 million in federal stimulus funds that were appropriated by the Legislature in 2009 to develop the SES. It is not clear if Florida will face any sanctions or whether FDLE would be allowed to reprogram the system for other criminal justice purposes.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

Public seaports will see a reduction in costs associated with complying with state seaport security standards.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could potentially save each port worker hundreds of dollars depending on their individual employment conditions. The table below displays the state and local fees that are currently authorized to be charged to persons seeking regular or unescorted access to Florida's seaports. Under this bill, port workers would only be liable for the local port access credential fee which may not exceed the administrative costs needed to produce and administer the credential.

Additionally, lessening costs on the ports would lessen the burden on port employees and tenants and potentially stimulate commerce by relieving burdensome regulatory measures.

## Financial Impact of Florida Seaport Security Laws<sup>32</sup>

<b>Individuals who hold (and already paid for) a valid TWIC* not obtained through a Transportation Security Administration (TSA) waiver:</b>	
• FDLE State of Florida criminal history check	<b>\$24</b>
• Fingerprint retention and FDLE seaport access eligibility reporting system	<b>\$50</b>
• Local port fees (approximate)	<b>\$35</b>
• <b><u>Total</u></b>	<b><u>\$110</u></b>

<b>Individuals who hold a valid TWIC* (obtained through a TSA waiver) or are not required to obtain a TWIC under federal law</b>	
• FDLE State of Florida criminal history check	<b>\$24</b>
• FBI national criminal history check	<b>\$19.25</b>
• Fingerprint retention and FDLE seaport access eligibility reporting system	<b>\$50</b>
• Local port fees (approximate)	<b>\$35</b>
• <b><u>Total</u></b>	<b><u>\$130</u></b>

\* The fee for the TWIC is not included in these fee amounts. The current fee to obtain a TWIC is \$132.50 and it is valid for 5 years.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

**2. Other:**

None

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Drafting Issues

The bill contains the following drafting issues:

- On lines 97 through 99 there are references to a Coast Guard Navigation and Vessel Inspection Circular and the Code of Federal Regulations that appear to be incorrect or outdated.
- On line 443 there is an incorrect cross-reference.

<sup>32</sup> Florida Ports Council, Memorandum to Florida House Transportation and Highway Safety Subcommittee, Seaport Security Workshop Information. February 22, 2011.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1                                   A bill to be entitled  
2       An act relating to seaport security; amending s. 311.12,  
3       F.S.; deleting provisions relating to statewide minimum  
4       standards for seaport security; deleting provisions  
5       authorizing the Department of Law Enforcement to exempt  
6       all or part of a seaport from specified requirements in  
7       certain circumstances; revising provisions relating to  
8       seaport security plans; revising requirements for certain  
9       secure or restricted areas; deleting provisions requiring  
10      that the Department of Law Enforcement administer a  
11      statewide seaport access eligibility reporting system;  
12      deleting provisions requiring that persons seeking  
13      authorization to access secure and restricted areas of a  
14      seaport execute an affidavit; prohibiting a seaport from  
15      charging any fee for administration or production of  
16      access control credentials that require or are associated  
17      with a fingerprint-based background check, in addition to  
18      the fee for the federal TWIC; providing for issuance of  
19      seaport-specific access credentials; deleting provisions  
20      requiring fingerprint-based state criminal history checks  
21      on seaport employee applicants, current employees, and  
22      other authorized persons; deleting provisions authorizing  
23      waivers from security requirements in certain  
24      circumstances; revising provisions relating to  
25      inspections; revising reporting requirements; revising the  
26      parties that determine the allocation of appropriated  
27      funds for security project needs; amending ss. 311.121,  
28      311.123, and 311.124, F.S.; conforming provisions to

29 changes made by the act; repealing s. 311.115, F.S.,  
 30 relating to the Seaport Security Standards Advisory  
 31 Council; providing an effective date.

32

33 Be It Enacted by the Legislature of the State of Florida:

34

35 Section 1. Section 311.12, Florida Statutes, is amended to  
 36 read:

37 311.12 Seaport security.—

38 (1) SECURITY STANDARDS.—

39 ~~(a) The statewide minimum standards for seaport security~~  
 40 ~~applicable to seaports listed in s. 311.09 shall be those based~~  
 41 ~~on the Florida Seaport Security Assessment 2000 and set forth in~~  
 42 ~~the Port Security Standards Compliance Plan delivered to the~~  
 43 ~~Speaker of the House of Representatives and the President of the~~  
 44 ~~Senate on December 11, 2000. The Office of Drug Control within~~  
 45 ~~the Executive Office of the Governor shall maintain a sufficient~~  
 46 ~~number of copies of the standards at its offices for~~  
 47 ~~distribution to the public and provide copies to each affected~~  
 48 ~~seaport upon request.~~

49 (a) ~~(b)~~ A seaport may implement security measures that are  
 50 more stringent, more extensive, or supplemental to the  
 51 applicable federal security regulations, including federal  
 52 facility security assessment requirements under 33 C.F.R. s.  
 53 105.305 ~~minimum security standards established by this~~  
 54 ~~subsection.~~

55 (b) ~~(c)~~ The provisions of s. 790.251 are not superseded,  
 56 preempted, or otherwise modified in any way by the provisions of

57 | this section.

58 | ~~(2) EXEMPTION. The Department of Law Enforcement may~~  
 59 | ~~exempt all or part of a seaport listed in s. 311.09 from the~~  
 60 | ~~requirements of this section if the department determines that~~  
 61 | ~~activity associated with the use of the seaport or part of the~~  
 62 | ~~seaport is not vulnerable to criminal activity or terrorism. The~~  
 63 | ~~department shall periodically review such exemptions to~~  
 64 | ~~determine if there is a change in use. Such change may warrant~~  
 65 | ~~removal of all or part of the exemption.~~

66 | (2)(3) SECURITY PLAN.-

67 | (a) Each seaport listed in s. 311.09 shall adopt and  
 68 | maintain a security plan specific to that seaport which provides  
 69 | for a secure seaport infrastructure that promotes the safety and  
 70 | security of state residents and visitors and the flow of  
 71 | legitimate trade and travel.

72 | ~~(b)(a) Each seaport Every 5 years after January 1, 2007,~~  
 73 | ~~each seaport director, with the assistance of the Regional~~  
 74 | ~~Domestic Security Task Force and in conjunction with the United~~  
 75 | ~~States Coast Guard, shall periodically revise the seaport's~~  
 76 | ~~security plan based on the seaport's director's ongoing~~  
 77 | ~~assessment of security risks, the risks of terrorist activities,~~  
 78 | ~~and the specific and identifiable needs of the seaport for~~  
 79 | ~~ensuring that the seaport is in substantial compliance with~~  
 80 | ~~applicable federal security regulations, including federal~~  
 81 | ~~facility security assessment requirements under 33 C.F.R. s.~~  
 82 | ~~105.305 the minimum security standards established under~~  
 83 | ~~subsection (1).~~

84 | ~~(b) Each adopted or revised security plan must be reviewed~~

85 ~~and approved by the Office of Drug Control and the Department of~~  
 86 ~~Law Enforcement for compliance with federal facility security~~  
 87 ~~assessment requirements under 33 C.F.R. s. 105.305 and the~~  
 88 ~~minimum security standards established under subsection (1).~~  
 89 ~~Within 30 days after completion, a copy of the written review~~  
 90 ~~shall be delivered to the United States Coast Guard, the~~  
 91 ~~Regional Domestic Security Task Force, and the Domestic Security~~  
 92 ~~Oversight Council.~~

93 (3)~~(4)~~ SECURE AND RESTRICTED AREAS.—Each seaport listed in  
 94 s. 311.09 must clearly designate in seaport security plans, and  
 95 clearly identify with appropriate signs and markers on the  
 96 premises of a seaport, all secure and restricted areas as  
 97 defined by the United States Department of Homeland Security—  
 98 United States Coast Guard Navigation and Vessel Inspection  
 99 Circular No. 03-07 and 49 C.F.R. part 1572. ~~The plans must also~~  
 100 ~~address access eligibility requirements and corresponding~~  
 101 ~~security enforcement authorizations.~~

102 (a) ~~The seaport's security plan must set forth the~~  
 103 ~~conditions and restrictions to be imposed on persons employed~~  
 104 ~~at, doing business at, or visiting the seaport who have access~~  
 105 ~~to secure and restricted areas which are sufficient to provide~~  
 106 ~~substantial compliance with the minimum security standards~~  
 107 ~~established in subsection (1) and federal regulations.~~

108 1. All seaport employees and other persons working at the  
 109 seaport who have regular access to secure or restricted areas  
 110 must comply with federal access control regulations and ~~state~~  
 111 ~~criminal history checks~~ as prescribed in this section.

112 2. All persons and objects in secure and restricted areas

113 are subject to search by a sworn state-certified law enforcement  
 114 officer, a Class D seaport security officer certified under  
 115 Maritime Transportation Security Act of 2002 guidelines and ~~s.~~  
 116 ~~311.121~~, or an employee of the seaport security force certified  
 117 under the Maritime Transportation Security Act of 2002  
 118 guidelines and ~~s. 311.121~~.

119 3. Persons found in these areas without the proper  
 120 permission are subject to the trespass provisions of ss. 810.08  
 121 and 810.09.

122 ~~(b) As determined by the seaport director's most current~~  
 123 ~~risk assessment under paragraph (3)(a), any secure or restricted~~  
 124 ~~area that has a potential human occupancy of 50 persons or more,~~  
 125 ~~any cruise terminal, or any business operation that is adjacent~~  
 126 ~~to a public access area must be protected from the most probable~~  
 127 ~~and credible terrorist threat to human life.~~

128 (b)(e) The seaport must provide clear notice of the  
 129 prohibition against possession of concealed weapons and other  
 130 contraband material on the premises of the seaport. Any person  
 131 in a restricted area who has in his or her possession a  
 132 concealed weapon, or who operates or has possession or control  
 133 of a vehicle in or upon which a concealed weapon is placed or  
 134 stored, commits a misdemeanor of the first degree, punishable as  
 135 provided in s. 775.082 or s. 775.083. This paragraph does not  
 136 apply to active-duty certified federal or state law enforcement  
 137 personnel or persons so designated by the seaport director in  
 138 writing.

139 (c)(d) During a period of high terrorist threat level, as  
 140 designated by the United States Department of Homeland Security

141 or the Department of Law Enforcement, or during an emergency  
 142 declared at a port by the seaport security director due to  
 143 events applicable to that particular seaport, the management or  
 144 controlling authority of the port may temporarily designate any  
 145 part of the seaport property as a secure or restricted area. The  
 146 duration of such designation is limited to the period in which  
 147 the high terrorist threat level is in effect or a port emergency  
 148 exists.

149 ~~(5) ACCESS ELIGIBILITY REPORTING SYSTEM. Subject to~~  
 150 ~~legislative appropriations, the Department of Law Enforcement~~  
 151 ~~shall administer a statewide seaport access eligibility~~  
 152 ~~reporting system.~~

153 ~~(a) The system must include, at a minimum, the following:~~

154 ~~1. A centralized, secure method of collecting and~~  
 155 ~~maintaining fingerprints, other biometric data, or other means~~  
 156 ~~of confirming the identity of persons authorized to enter a~~  
 157 ~~secure or restricted area of a seaport.~~

158 ~~2. A methodology for receiving from and transmitting~~  
 159 ~~information to each seaport regarding a person's authority to~~  
 160 ~~enter a secure or restricted area of the seaport.~~

161 ~~3. A means for receiving prompt notification from a~~  
 162 ~~seaport when a person's authorization to enter a secure or~~  
 163 ~~restricted area of a seaport has been suspended or revoked.~~

164 ~~4. A means to communicate to seaports when a person's~~  
 165 ~~authorization to enter a secure or restricted area of a seaport~~  
 166 ~~has been suspended or revoked.~~

167 ~~(b) Each seaport listed in s. 311.09 is responsible for~~  
 168 ~~granting, modifying, restricting, or denying access to secure~~

169 ~~and restricted areas to seaport employees, other persons working~~  
 170 ~~at the seaport, visitors who have business with the seaport, or~~  
 171 ~~other persons regularly appearing at the seaport. Based upon the~~  
 172 ~~person's criminal history check, each seaport may determine the~~  
 173 ~~specific access eligibility to be granted to that person. Each~~  
 174 ~~seaport is responsible for access eligibility verification at~~  
 175 ~~its location.~~

176 ~~(c) Upon determining that a person is eligible to enter a~~  
 177 ~~secure or restricted area of a port pursuant to subsections (6)~~  
 178 ~~and (7), the seaport shall, within 3 business days, report the~~  
 179 ~~determination to the department for inclusion in the system.~~

180 ~~(d) All information submitted to the department regarding~~  
 181 ~~a person's access eligibility screening may be retained by the~~  
 182 ~~department for subsequent use in promoting seaport security,~~  
 183 ~~including, but not limited to, the review of the person's~~  
 184 ~~criminal history status to ensure that the person has not become~~  
 185 ~~disqualified for such access.~~

186 ~~(e) The following fees may not be charged by more than one~~  
 187 ~~seaport and shall be paid by the seaport, another employing~~  
 188 ~~entity, or the person being entered into the system to the~~  
 189 ~~department or to the seaport if the seaport is acting as an~~  
 190 ~~agent of the department for the purpose of collecting the fees:~~

191 ~~1. The cost of the state criminal history check under~~  
 192 ~~subsection (7).~~

193 ~~2. A \$50 fee to cover the initial cost of entering the~~  
 194 ~~person into the system and an additional \$50 fee every 5 years~~  
 195 ~~thereafter to coincide with the issuance of the federal~~  
 196 ~~Transportation Worker Identification Credential described in~~

197 ~~subsection (6). The fee covers all costs for entering or~~  
 198 ~~maintaining the person in the system including the retention and~~  
 199 ~~use of the person's fingerprint, other biometric data, or other~~  
 200 ~~identifying information.~~

201 ~~3. The seaport entering the person into the system may~~  
 202 ~~charge an administrative fee to cover, but not exceed, the~~  
 203 ~~seaport's actual administrative costs for processing the results~~  
 204 ~~of the state criminal history check and entering the person into~~  
 205 ~~the system.~~

206 ~~(f) All fees identified in paragraph (e) must be paid~~  
 207 ~~before the person may be granted access to a secure or~~  
 208 ~~restricted area. Failure to comply with the criminal history~~  
 209 ~~check and failure to pay the fees are grounds for immediate~~  
 210 ~~denial of access.~~

211 ~~(g) Persons, corporations, or other business entities that~~  
 212 ~~employ persons to work or do business at seaports shall notify~~  
 213 ~~the seaport of the termination, resignation, work-related~~  
 214 ~~incapacitation, or death of an employee who has access~~  
 215 ~~permission.~~

216 ~~1. If the seaport determines that the person has been~~  
 217 ~~employed by another appropriate entity or is self-employed for~~  
 218 ~~purposes of performing work at the seaport, the seaport may~~  
 219 ~~reinstate the person's access eligibility.~~

220 ~~2. A business entity's failure to report a change in an~~  
 221 ~~employee's work status within 7 days after the change may result~~  
 222 ~~in revocation of the business entity's access to the seaport.~~

223 ~~(h) In addition to access permissions granted or denied by~~  
 224 ~~seaports, access eligibility may be restricted or revoked by the~~



225 ~~department if there is a reasonable suspicion that the person is~~  
 226 ~~involved in terrorism or criminal violations that could affect~~  
 227 ~~the security of a port or otherwise render the person ineligible~~  
 228 ~~for seaport access.~~

229 ~~(i) Any suspension or revocation of port access must be~~  
 230 ~~reported by the seaport to the department within 24 hours after~~  
 231 ~~such suspension or revocation.~~

232 ~~(j) The submission of information known to be false or~~  
 233 ~~misleading to the department for entry into the system is a~~  
 234 ~~felony of the third degree, punishable as provided in s.~~  
 235 ~~775.082, s. 775.083, or s. 775.084.~~

236 (4)(6) ACCESS TO SECURE AND RESTRICTED AREAS.—

237 (a) Any person seeking authorization for unescorted access  
 238 to secure and restricted areas of a seaport must possess, ~~unless~~  
 239 ~~waived under paragraph (7)(e),~~ a valid federal Transportation  
 240 Worker Identification Credential (TWIC).

241 (b) A seaport may not charge any fee for the  
 242 administration or production of any access control credential  
 243 that requires or is associated with a fingerprint-based  
 244 background check, in addition to the fee for the federal TWIC. A  
 245 seaport may issue its own seaport-specific access credential and  
 246 may charge a fee no greater than its actual administrative costs  
 247 for the production and issuance of the credential. and execute  
 248 ~~an affidavit under oath which provides TWIC identification~~  
 249 ~~information and indicates the following:~~

250 ~~1. The TWIC is currently valid and in full force and~~  
 251 ~~effect.~~

252 ~~2. The TWIC was not received through the waiver process~~

253 ~~for disqualifying criminal history allowed by federal law.~~

254 ~~3. He or she has not, in any jurisdiction, civilian or~~  
 255 ~~military, been convicted of, entered a plea of guilty or nolo~~  
 256 ~~contendere to, regardless of adjudication, or been found not~~  
 257 ~~guilty by reason of insanity, of any disqualifying felony under~~  
 258 ~~subsection (7) or any crime that includes the use or possession~~  
 259 ~~of a firearm.~~

260 ~~(b) Upon submission of a completed affidavit as provided~~  
 261 ~~in paragraph (a), the completion of the state criminal history~~  
 262 ~~check as provided in subsection (7), and payment of all required~~  
 263 ~~fees under subsection (5), a seaport may grant the person access~~  
 264 ~~to secure or restricted areas of the port.~~

265 ~~(c) Any port granting a person access to secure or~~  
 266 ~~restricted areas shall report the grant of access to the~~  
 267 ~~Department of Law Enforcement for inclusion in the access~~  
 268 ~~eligibility reporting system under subsection (5) within 3~~  
 269 ~~business days.~~

270 ~~(d) The submission of false information on the affidavit~~  
 271 ~~required by this section is a felony of the third degree,~~  
 272 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~  
 273 ~~Upon conviction for a violation of this provision, the person~~  
 274 ~~convicted forfeits all privilege of access to secure or~~  
 275 ~~restricted areas of a seaport and is disqualified from future~~  
 276 ~~approval for access to such areas.~~

277 ~~(e) Any affidavit form created for use under this~~  
 278 ~~subsection must contain the following statement in conspicuous~~  
 279 ~~type: "SUBMISSION OF FALSE INFORMATION ON THIS AFFIDAVIT IS A~~  
 280 ~~FELONY UNDER FLORIDA LAW AND WILL, UPON CONVICTION, RESULT IN~~

281 ~~DISQUALIFICATION FOR ACCESS TO A SECURE OR RESTRICTED AREA OF A~~  
 282 ~~SEAPORT."~~

283 ~~(f) Upon each 5-year renewal of a person's TWIC, the~~  
 284 ~~person must submit another affidavit as required by this~~  
 285 ~~subsection.~~

286 ~~(7) CRIMINAL HISTORY SCREENING. A fingerprint-based~~  
 287 ~~criminal history check must be performed on employee applicants,~~  
 288 ~~current employees, and other persons authorized to regularly~~  
 289 ~~enter a secure or restricted area, or the entire seaport if the~~  
 290 ~~seaport security plan does not designate one or more secure or~~  
 291 ~~restricted areas.~~

292 ~~(a) A person is disqualified from employment or unescorted~~  
 293 ~~access if the person:~~

294 ~~1. Was convicted of, or entered a plea of guilty or nolo~~  
 295 ~~contendere to, regardless of adjudication, any of the offenses~~  
 296 ~~listed in paragraph (b) in any jurisdiction, civilian or~~  
 297 ~~military, including courts-martial conducted by the Armed Forces~~  
 298 ~~of the United States, during the 7 years before the date of the~~  
 299 ~~person's application for access; or~~

300 ~~2. Was released from incarceration, or any supervision~~  
 301 ~~imposed as a result of sentencing, for committing any of the~~  
 302 ~~disqualifying crimes listed in paragraph (b) in any~~  
 303 ~~jurisdiction, civilian or military, during the 5 years before~~  
 304 ~~the date of the person's application for access.~~

305 ~~(b) Disqualifying offenses include:~~

306 ~~1. An act of terrorism as defined in s. 775.30.~~

307 ~~2. A violation involving a weapon of mass destruction or a~~  
 308 ~~hoax weapon of mass destruction as provided in s. 790.166.~~

- 309 |       ~~3. Planting of a hoax bomb as provided in s. 790.165.~~
- 310 |       ~~4. A violation of s. 876.02 or s. 876.36.~~
- 311 |       ~~5. A violation of s. 860.065.~~
- 312 |       ~~6. Trafficking as provided in s. 893.135.~~
- 313 |       ~~7. Racketeering activity as provided in s. 895.03.~~
- 314 |       ~~8. Dealing in stolen property as provided in s. 812.019.~~
- 315 |       ~~9. Money laundering as provided in s. 896.101.~~
- 316 |       ~~10. Criminal use of personal identification as provided in~~
- 317 | ~~s. 817.568.~~
- 318 |       ~~11. Bribery as provided in s. 838.015.~~
- 319 |       ~~12. A violation of s. 316.302, relating to the transport~~
- 320 | ~~of hazardous materials.~~
- 321 |       ~~13. A forcible felony as defined in s. 776.08.~~
- 322 |       ~~14. A violation of s. 790.07.~~
- 323 |       ~~15. Any crime that includes the use or possession of a~~
- 324 | ~~firearm.~~
- 325 |       ~~16. A felony violation for theft as provided in s.~~
- 326 | ~~812.014.~~
- 327 |       ~~17. Robbery as provided in s. 812.13.~~
- 328 |       ~~18. Burglary as provided in s. 810.02.~~
- 329 |       ~~19. Any violation involving the sale, manufacture,~~
- 330 | ~~delivery, or possession with intent to sell, manufacture, or~~
- 331 | ~~deliver a controlled substance.~~
- 332 |       ~~20. Any offense under the laws of another jurisdiction~~
- 333 | ~~that is similar to an offense listed in this paragraph.~~
- 334 |       ~~21. Conspiracy or attempt to commit any of the offenses~~
- 335 | ~~listed in this paragraph.~~
- 336 |       ~~(c) Each individual who is subject to a criminal history~~

337 ~~check shall file a complete set of fingerprints taken in a~~  
 338 ~~manner acceptable to the Department of Law Enforcement for state~~  
 339 ~~processing. The results of the criminal history check must be~~  
 340 ~~reported to the requesting seaport and may be shared among~~  
 341 ~~seaports.~~

342 ~~(d) All fingerprints submitted to the Department of Law~~  
 343 ~~Enforcement shall be retained by the department and entered into~~  
 344 ~~the statewide automated fingerprint identification system~~  
 345 ~~established in s. 943.05(2)(b) and available for use in~~  
 346 ~~accordance with s. 943.05(2)(g) and (h). An arrest record that~~  
 347 ~~is identified with the retained fingerprints of a person subject~~  
 348 ~~to the screening shall be reported to the seaport where the~~  
 349 ~~person has been granted access to a secure or restricted area.~~  
 350 ~~If the fingerprints of a person who has been granted access were~~  
 351 ~~not retained, or are otherwise not suitable for use by the~~  
 352 ~~department, the person must be refingerprinted in a manner that~~  
 353 ~~allows the department to perform its functions as provided in~~  
 354 ~~this section.~~

355 ~~(e) The Department of Law Enforcement shall establish a~~  
 356 ~~waiver process for a person who does not have a TWIC, obtained a~~  
 357 ~~TWIC through a federal waiver process, or is found to be~~  
 358 ~~unqualified under paragraph (a) and denied employment by a~~  
 359 ~~seaport or unescorted access to secure or restricted areas. If~~  
 360 ~~the person does not have a TWIC and a federal criminal history~~  
 361 ~~record check is required, the Department of Law Enforcement may~~  
 362 ~~forward the person's fingerprints to the Federal Bureau of~~  
 363 ~~Investigation for a national criminal history record check. The~~  
 364 ~~cost of the national check must be paid by the seaport, which~~

365 ~~may collect it as reimbursement from the person.~~

366 ~~1. Consideration for a waiver shall be based on the~~  
 367 ~~circumstances of any disqualifying act or offense, restitution~~  
 368 ~~made by the individual, and other factors from which it may be~~  
 369 ~~determined that the individual does not pose a risk of engaging~~  
 370 ~~in any act within the public seaports regulated under this~~  
 371 ~~chapter that would pose a risk to or threaten the security of~~  
 372 ~~the seaport and the public's health, safety, or welfare.~~

373 ~~2. The waiver process begins when an individual who has~~  
 374 ~~been denied initial employment within or denied unescorted~~  
 375 ~~access to secure or restricted areas of a public seaport submits~~  
 376 ~~an application for a waiver and a notarized letter or affidavit~~  
 377 ~~from the individual's employer or union representative which~~  
 378 ~~states the mitigating reasons for initiating the waiver process.~~

379 ~~3. Within 90 days after receipt of the application, the~~  
 380 ~~administrative staff of the Parole Commission shall conduct a~~  
 381 ~~factual review of the waiver application. Findings of fact shall~~  
 382 ~~be transmitted to the department for review. The department~~  
 383 ~~shall make a copy of those findings available to the applicant~~  
 384 ~~before final disposition of the waiver request.~~

385 ~~4. The department shall make a final disposition of the~~  
 386 ~~waiver request based on the factual findings of the~~  
 387 ~~investigation by the Parole Commission. The department shall~~  
 388 ~~notify the waiver applicant of the final disposition of the~~  
 389 ~~waiver.~~

390 ~~5. The review process under this paragraph is exempt from~~  
 391 ~~chapter 120.~~

392 ~~6. By October 1 of each year, each seaport shall report to~~

393 ~~the department each instance of denial of employment within, or~~  
 394 ~~access to, secure or restricted areas, and each instance waiving~~  
 395 ~~a denial occurring during the last 12 months. The report must~~  
 396 ~~include the identity of the individual affected, the factors~~  
 397 ~~supporting the denial or waiver, and any other material factors~~  
 398 ~~used to make the determination.~~

399 ~~(f) In addition to the waiver procedure established by the~~  
 400 ~~Department of Law Enforcement under paragraph (e), each seaport~~  
 401 ~~security plan may establish a procedure to appeal a denial of~~  
 402 ~~employment or access based upon procedural inaccuracies or~~  
 403 ~~discrepancies regarding criminal history factors established~~  
 404 ~~pursuant to this subsection.~~

405 ~~(g) Each seaport may allow immediate waivers on a~~  
 406 ~~temporary basis to meet special or emergency needs of the~~  
 407 ~~seaport or its users. Policies, procedures, and criteria for~~  
 408 ~~implementation of this paragraph must be included in the seaport~~  
 409 ~~security plan. All waivers granted by the seaports pursuant to~~  
 410 ~~this paragraph must be reported to the department within 30 days~~  
 411 ~~after issuance.~~

412 ~~(8) WAIVER FROM SECURITY REQUIREMENTS. The Office of Drug~~  
 413 ~~Control and the Department of Law Enforcement may modify or~~  
 414 ~~wave any physical facility requirement or other requirement~~  
 415 ~~contained in the minimum security standards upon a determination~~  
 416 ~~that the purposes of the standards have been reasonably met or~~  
 417 ~~exceeded by the seaport requesting the modification or waiver.~~  
 418 ~~An alternate means of compliance must not diminish the safety or~~  
 419 ~~security of the seaport and must be verified through an~~  
 420 ~~extensive risk analysis conducted by the seaport director.~~

421 ~~(a) Waiver requests shall be submitted in writing, along~~  
 422 ~~with supporting documentation, to the Office of Drug Control and~~  
 423 ~~the Department of Law Enforcement. The office and the department~~  
 424 ~~have 90 days to jointly grant or reject the waiver, in whole or~~  
 425 ~~in part.~~

426 ~~(b) The seaport may submit any waivers that are not~~  
 427 ~~granted or are jointly rejected to the Domestic Security~~  
 428 ~~Oversight Council for review within 90 days. The council shall~~  
 429 ~~recommend that the Office of Drug Control and the Department of~~  
 430 ~~Law Enforcement grant the waiver or reject the waiver, in whole~~  
 431 ~~or in part. The office and the department shall give great~~  
 432 ~~weight to the council's recommendations.~~

433 ~~(c) A request seeking a waiver from the seaport law~~  
 434 ~~enforcement personnel standards established under s. 311.122(3)~~  
 435 ~~may not be granted for percentages below 10 percent.~~

436 ~~(d) Any modifications or waivers granted under this~~  
 437 ~~subsection shall be noted in the annual report submitted by the~~  
 438 ~~Department of Law Enforcement pursuant to subsection (10).~~

439 (5)(9) INSPECTIONS.—It is the intent of the Legislature  
 440 that the state's seaports adhere to security practices that are  
 441 consistent with the risks assigned to each seaport through the  
 442 ongoing risk assessment process established in paragraph  
 443 (2)(3)(a).

444 (a) The Department of Law Enforcement, or any entity  
 445 designated by the department, may ~~shall~~ conduct ~~at least one~~  
 446 ~~annual~~ unannounced inspections ~~inspection~~ of each seaport to  
 447 determine whether the seaport is meeting the requirements under  
 448 33 C.F.R. s. 105.305 ~~minimum security standards established~~



449 ~~pursuant to subsection (1)~~ and to identify seaport security  
 450 changes or improvements needed or otherwise recommended.

451 (b) The Department of Law Enforcement, or any entity  
 452 designated by the department, may conduct additional announced  
 453 or unannounced inspections or operations within or affecting any  
 454 seaport to test compliance with, or the effectiveness of,  
 455 security plans and operations at each seaport, to determine  
 456 compliance with physical facility requirements and standards, ~~or~~  
 457 ~~to assist the department in identifying changes or improvements~~  
 458 ~~needed to bring a seaport into compliance with minimum security~~  
 459 ~~standards.~~

460 (c) Within 30 days after completing the inspection report,  
 461 the department shall submit a copy of the report to the Domestic  
 462 Security Oversight Council.

463 (d) A seaport may request that the Domestic Security  
 464 Oversight Council review the findings in the department's report  
 465 as they relate to the requirements of this section. The council  
 466 may review only those findings that are in dispute by the  
 467 seaport. In reviewing the disputed findings, the council may  
 468 concur in the findings of the department or the seaport or may  
 469 recommend corrective action to the seaport. The department and  
 470 the seaport shall give great weight to the council's findings  
 471 and recommendations.

472 (e) All seaports shall allow the Department of Law  
 473 Enforcement, or an entity designated by the department,  
 474 unimpeded access to affected areas and facilities for the  
 475 purpose of plan or compliance inspections or other operations  
 476 authorized by this section.

477        (6) ~~(10)~~ REPORTS.—The Department of Law Enforcement, ~~in~~  
 478 ~~consultation with the Office of Drug Control,~~ shall annually  
 479 complete a report indicating the observations and findings of  
 480 all reviews, inspections, or other operations relating to the  
 481 seaports conducted during the year and any recommendations  
 482 resulting from such reviews, inspections, and operations. A copy  
 483 of the report shall be provided to the Governor, the President  
 484 of the Senate, the Speaker of the House of Representatives, the  
 485 governing body of each seaport or seaport authority, and each  
 486 seaport director. The report must include each director's  
 487 response indicating what actions, if any, have been taken or are  
 488 planned to be taken pursuant to the observations, findings, and  
 489 recommendations reported by the department.

490        (7) ~~(11)~~ FUNDING.—

491        (a) In making decisions regarding security projects or  
 492 other funding applicable to each seaport listed in s. 311.09,  
 493 the Legislature may consider the Department of Law Enforcement's  
 494 annual report under subsection (6) ~~(10)~~ as authoritative,  
 495 ~~especially regarding each seaport's degree of substantial~~  
 496 ~~compliance with the minimum security standards established in~~  
 497 ~~subsection (1).~~

498        (b) The Legislature shall regularly review the ongoing  
 499 costs of operational security on seaports, the impacts of this  
 500 section on those costs, mitigating factors that may reduce costs  
 501 without reducing security, and the methods by which seaports may  
 502 implement operational security using a combination of sworn law  
 503 enforcement officers and private security services.

504        (c) Subject to the provisions of this chapter and

505 appropriations made for seaport security, state funds may not be  
 506 expended for security costs without certification of need for  
 507 such expenditures by the Office of Ports Administrator within  
 508 the Department of Law Enforcement.

509 (d) If funds are appropriated for seaport security, ~~the~~  
 510 ~~Office of Drug Control,~~ the Department of Law Enforcement, and  
 511 the Florida Seaport Transportation and Economic Development  
 512 Council shall mutually determine the allocation of such funds  
 513 for security project needs identified in the approved seaport  
 514 security plans. Any seaport that receives state funds for  
 515 security projects must enter into a joint participation  
 516 agreement with the appropriate state entity and use the seaport  
 517 security plan as the basis for the agreement.

518 1. If funds are made available over more than 1 fiscal  
 519 year, the agreement must reflect the entire scope of the project  
 520 approved in the security plan and, as practicable, allow for  
 521 reimbursement for authorized projects over more than 1 year.

522 2. The agreement may include specific timeframes for  
 523 completion of a security project and the applicable funding  
 524 reimbursement dates. The agreement may also require a  
 525 contractual penalty of up to \$1,000 per day to be imposed for  
 526 failure to meet project completion dates if state funding is  
 527 available. Any such penalty shall be deposited into the State  
 528 Transportation Trust Fund and used for seaport security  
 529 operations and capital improvements.

530 Section 2. Subsection (2) of section 311.121, Florida  
 531 Statutes, is amended to read:

532 311.121 Qualifications, training, and certification of

533 licensed security officers at Florida seaports.—

534 (2) The authority or governing board of each seaport  
 535 identified under s. 311.09 that is subject to the ~~statewide~~  
 536 ~~minimum~~ seaport security standards referenced ~~established~~ in s.  
 537 311.12 shall require that a candidate for certification as a  
 538 seaport security officer:

539 (a) Has received a Class D license as a security officer  
 540 under chapter 493.

541 (b) Has successfully completed the certified training  
 542 curriculum for a Class D license or has been determined by the  
 543 Department of Agriculture and Consumer Services to have  
 544 equivalent experience as established by rule of the department.

545 (c) Has completed the training or training equivalency and  
 546 testing process established by this section for becoming a  
 547 certified seaport security officer.

548 Section 3. Subsection (1) of section 311.123, Florida  
 549 Statutes, is amended to read:

550 311.123 Maritime domain security awareness training  
 551 program.—

552 (1) The Florida Seaport Transportation and Economic  
 553 Development Council, in conjunction with the Department of Law  
 554 Enforcement ~~and the Office of Drug Control within the Executive~~  
 555 ~~Office of the Governor~~, shall create a maritime domain security  
 556 awareness training program to instruct all personnel employed  
 557 within a seaport's boundaries about the security procedures  
 558 required of them for implementation of the seaport security plan  
 559 required under s. 311.12 (2) ~~(3)~~.

560 Section 4. Subsection (1) of section 311.124, Florida

561 Statutes, is amended to read:

562 311.124 Trespassing; detention by a certified seaport  
563 security officer.—

564 (1) Any Class D or Class G seaport security officer  
565 certified under the federal Maritime Transportation Security Act  
566 of 2002 guidelines ~~and s. 311.121~~ or any employee of the seaport  
567 security force certified under the federal Maritime  
568 Transportation Security Act of 2002 guidelines ~~and s. 311.121~~  
569 who has probable cause to believe that a person is trespassing  
570 pursuant to s. 810.08 or s. 810.09 or this chapter in a  
571 designated secure or restricted area pursuant to s. 311.12(3)~~(4)~~  
572 is authorized to detain such person in a reasonable manner for a  
573 reasonable period of time pending the arrival of a law  
574 enforcement officer, and such action does not render the  
575 security officer criminally or civilly liable for false arrest,  
576 false imprisonment, or unlawful detention.

577 Section 5. Section 311.115, Florida Statutes, is repealed.

578 Section 6. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 283 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Transportation & Highway  
2 Safety Subcommittee

3 Representative(s) Young offered the following:

4  
5 **Amendment**

6 Remove lines 97-99 and insert:

7 defined by 33 C.F.R. part 105 ~~the United States Department of~~  
8 ~~Homeland Security United States Coast Guard Navigation and~~  
9 ~~Vessel Inspection Circular No. 03-07 and 49 C.F.R. part 1572.~~

10 ~~The plans must also~~

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Highway  
2 Safety Subcommittee  
3 Representative(s) Young offered the following:

**Amendment (with title amendment)**

Remove lines 139-148 and insert:

7 (c)~~(d)~~ During a period of high terrorist threat level, as  
8 designated by the United States Department of Homeland Security  
9 ~~or the Department of Law Enforcement, or during an emergency~~  
10 ~~declared at a port by the seaport security director due to~~  
11 ~~events applicable to that particular seaport,~~ the management or  
12 controlling authority of the port may temporarily designate any  
13 part of the seaport property as a secure or restricted area. The  
14 duration of such designation is limited to the period in which  
15 the high terrorist threat level is in effect or a port emergency  
16 exists.

18 -----  
19 **T I T L E A M E N D M E N T**

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 283 (2011)

Amendment No. 2

20 Remove line 9 and insert:  
21 secure or restricted areas; removing entities authorized to  
22 designate a high terrorist threat level; deleting provisions  
23 requiring



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 283 (2011)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Highway  
2 Safety Subcommittee  
3 Representative(s) Young offered the following:

4  
5  
6  
7

**Amendment**

Remove line 443 and insert:

(2) ~~(3)~~ (a).

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 283 (2011)

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Highway  
2 Safety Subcommittee  
3 Representative(s) Young offered the following:

4

5 **Amendment**

6 Remove line 578 and insert:

7 Section 6. This act shall take effect upon becoming law.

8



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4183 Brevard County Expressway Authority Law

SPONSOR(S): Nelson and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>[Signature]</i>	Brown <i>[Signature]</i>
2) Economic Affairs Committee			

SUMMARY ANALYSIS

This bill repeals the Brevard County Expressway Authority, which was created in 1972, but has never met.

Florida expressway authorities are formed either under the Florida Expressway Authority Act or by special act of the Legislature.

The purpose of Florida's expressway authorities is to construct, maintain, and operate tolled transportation facilities complementing the State Highway System and the Florida Turnpike Enterprise. The expressway authorities have boards of directors that typically include a combination of local-government officials and Governor appointees who decide on projects and expenditure of funds.

Part II of ch. 348, F.S., creates the Brevard County Expressway Authority, which was originally created in 1972.

The bill repeals the statutory sections of part II of ch. 348, F.S.; thereby repealing the Brevard County Expressway Authority Law.

This bill does not have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Florida expressway authorities are formed either under the Florida Expressway Authority Act<sup>1</sup> or by special act of the Legislature. Most existing expressway authorities were created prior to the Florida Expressway Authority Act being enacted in 1990 and, therefore, are not subject to most of its provisions. The Miami-Dade Expressway Authority is the only authority currently created and governed by the Florida Expressway Authority Act.

The purpose of Florida's expressway authorities is to construct, maintain, and operate tolled transportation facilities complementing the State Highway System and the Florida Turnpike Enterprise. The expressway authorities have boards of directors that typically include a combination of local-government officials and Governor appointees who decide on projects and expenditure of funds.

Part II of ch. 348, F.S., creates the Brevard County Expressway Authority, which was originally created in 1972.<sup>2</sup> This Authority has never met. It is registered as a dependent special district with the Department of Community Affairs.

##### Proposed Changes

The bill repeals the statutory sections of part II of ch. 348, F.S.; thereby repealing the Brevard County Expressway Authority Law.

The bill has an effective date of July 1, 2011.

#### B. SECTION DIRECTORY:

Section 1 Repeals ss. 348.216, 348.217, 348.218, 348.219, 348.22, 348.221, 348.223, 348.224, 348.225, 348.226, 348.227, 348.228, 348.229, and 348.23, F.S., relating to the Broward County Expressway Authority.

Section 2 Provides an effective date.

### II. 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

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<sup>1</sup> Part I of Ch. 348, F.S.

<sup>2</sup> Ch. 72-408, L.O.F.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

According to the Department of Community Affairs, there is a \$175 annual registration fee for special districts. However, the Brevard County Expressway Authority meets the conditions to have the fee waived, and has received a fee waiver. Therefore, it is not currently paying this fee.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 4183

2011

1                   A bill to be entitled  
2           An act relating to the Brevard County Expressway Authority  
3           Law; repealing ss. 348.216-348.23, F.S.; removing  
4           provisions that created and govern the Brevard County  
5           Expressway Authority; providing an effective date.  
6

7   Be It Enacted by the Legislature of the State of Florida:  
8

9           Section 1.   Sections 348.216, 348.217, 348.218, 348.219,  
10   348.22, 348.221, 348.222, 348.223, 348.224, 348.225, 348.226,  
11   348.227, 348.228, 348.229, 348.23, Florida Statutes, are  
12   repealed.

13           Section 2.   This act shall take effect July 1, 2011.



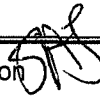
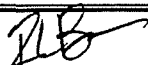


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 601 Road and Bridge Designations

**SPONSOR(S):** Transportation & Highway Safety Subcommittee

**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee		Johnson 	Brown 

### SUMMARY ANALYSIS

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not "officially" change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings. The bill makes the following designations and directs the Department of Transportation to erect suitable markers for each of these designations:

- Sgt. Thomas J. Baitinger, Officer Jeffrey A. Yaslowitz, and Officer David S. Crawford Memorial Highway in Pinellas County.
- Edna S. Hargrett-Thrower Avenue in Orange County.
- SP4 Thomas Berry Corbin Memorial Highway in Dixie County.
- U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway in Dixie County.
- Marine Lance Corporal Brian R. Busing Memorial Highway in Levy County.
- United States Army Sergeant Karl A. Campbell Memorial Highway in Levy County.
- U.S. Army SPC James A. Page Memorial Highway in Levy County.
- Veterans Memorial Highway in Putnam County.
- Ben G. Watts Highway in Washington County.
- Mardi Gras Way in Broward County.
- West Park Boulevard in Broward County.
- Starke Memorial Drive in Duval County.
- Pembroke Park Boulevard in Broward County.

The bill also corrects errors in the Miss Lillie Williams Boulevard and the Father Jean-Juste Street designations that passed in 2010.

The bill has an estimated negative fiscal impact of \$10,400, which is the cost to the Department of Transportation to erect the markers.

The bill has an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not "officially" change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires the Department of Transportation (DOT) to place a marker at each termini or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

#### Effect of Proposed Change

The bill makes the following honorary designations:

- State Road 687 in Pinellas County from I-275 to I-175 as "Sgt. Thomas J. Baitinger, Officer Jeffrey A. Yaslowitz, and Officer David S. Crawford Memorial Highway."
- That portion of Orange Blossom Trail between W. Gore Street and W. Church Street in Orange County as "Edna S. Hargrett-Thrower Avenue."
- That portion of U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592<sup>nd</sup> Street/Chavous Road/Kate Green Road in Dixie County as "SP4 Thomas Berry Corbin Memorial Highway."
- That portion of U.S. Highway 19/98/State Road 55 between N.E. 592<sup>nd</sup> Street/Chavous Road/Kate Green Road and N.E. 170<sup>th</sup> Street in Dixie County as "U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway."
- That portion of State Road 24 between County Road 374 and Bridge Number 340053 in Levy County as "Marine Lance Corporal Brian R. Busing Memorial Highway."
- That portion of U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1<sup>st</sup> Avenue and S.E. 2<sup>nd</sup> Avenues in Levy County as United States Army Sergeant Karl A. Campbell Memorial Highway.'
- That portion of U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County as "U.S. Army SPC James A. Page Memorial Highway."
- That portion of State Road 19 in Putnam County between U.S. Highway 17 (State Road 15) and Carriage Drive in Palatka as "Veterans Memorial Highway."
- That portion of U.S. 90 in Washington County between the Jackson County line and the Holmes County Line at the Holmes Creek Bridge as the "Ben G. Watts Highway."
- That portion of State Road 824 between I-95 and U.S. Highway 1 in Broward County as "Mardi Gras Way."
- That portion of State Road 7 between Pembroke Road and County Line Road in Broward County as "West Park Boulevard."
- That portion of State Road 101/Mayport Road between State Road A1A and Wonderwood Connector in Duval County as "Stark Memorial Drive."
- That portion of State Road 858/Hallandale Beach Boulevard between I-95 and U.S. 441/State Road 7 in Broward County as "Pembroke Park Boulevard."

The bill directs DOT to erect suitable markers designating each of the above designations.

The bill also amends the "Miss Lillie Williams Boulevard" and "Father Gerard Jean-Juste Street" designations which were created in 2010 in order to correct errors in the previous designations.<sup>1</sup>

The bill has an effective date of July 1, 2011.

**B. SECTION DIRECTORY:**

- Section 1 Designates Sgt. Thomas J. Baitinger, Officer Jeffrey A. Yaslowitz, and Officer David S. Crawford Memorial Highway; directs DOT to erect suitable markers.
- Section 2 Designates "Edna S. Hargrett-Thrower Avenue; directs DOT to erect suitable markers.
- Section 3 Designates the SP4 Thomas Berry Corbin Memorial Highway; directs DOT to erect suitable markers.
- Section 4 Designates the U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway; directs DOT to erect suitable markers.
- Section 5 Designates the Marine Lance Corporal Brian R. Busing Memorial Highway; directs DOT to erect suitable markers.
- Section 6 Designates the Army Sergeant Karl A. Campbell Memorial Highway; directs DOT to erect suitable markers.
- Section 7 Designates the U.S. Army SPC James A. Page Memorial Highway; directs DOT to erect suitable markers.
- Section 8 Designates the Veterans Memorial Highway; directs DOT to erect suitable markers.
- Section 9 Designates the Ben G. Watts Highway; directs DOT to erect suitable markers.
- Section 10 Designates Mardi Gras Way; directs DOT to erect suitable markers.
- Section 11 Designates West Park Boulevard; directs DOT to erect suitable markers.
- Section 12 Designates Starke Memorial Drive; directs DOT to erect suitable markers.
- Section 13 Designates Pembroke Park Boulevard; directs DOT to erect suitable markers.
- Section 14 Amends section 24 of ch. 2010-230, L.O.F., amending the "Miss Lillie Williams Boulevard" designation.
- Section 15 Amends section 45 of ch. 2010-230, L.O.F., amending the "Father Jean-Juste Street." designation.
- Section 16 Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

- 1. Revenues:
  - None
- 2. Expenditures:

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<sup>1</sup> Ch. 2010-230, L.O.F.

DOT will incur costs of approximately \$10,400 (from the State Transportation Trust Fund) for erecting markers for the designations. This is based on the assumption that two markers for each designation will be erected at a cost of \$400 per marker. DOT will also incur the recurring costs of maintaining these signs over time, and for future replacement of the signs as necessary.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None

Comments

Sgt. Thomas J. Baitinger and Officer Jeffrey A. Yaslowitz were St. Petersburg police officers killed in the line of duty on January 24, 2011.

Officer David S. Crawford was a St. Petersburg police officer killed in the line of duty on February 21, 2011.

Edna Sampson Hargrett-Thrower was the head the Choral Music department at Jones High School in Orlando. She passed away on April 19, 2010

Army Sp4 Thomas Berry Corbin was killed in combat in South Vietnam in 1968. He received the Army Silver Star.

Navy BMC Samuel Calhoun Chavous Jr. was killed in combat in South Vietnam in 1968.

Marine Lance Cpl. Brian Rory Busing was killed in combat in Iraq in 2003.

Army Sgt. Karl Andrew Campbell was killed in Afghanistan in 2010.

Army SPC. James Anthony Page was killed in Afghanistan in 2010.

Ben G. Watts served as Secretary of DOT from 1989 to 1997. Currently, Mr. Watts is retired from Carter & Burgess, Inc., where he served as President and CEO.

Based in Mayport, FL, the USS Stark was attacked by an Iraqi jet fighter in 1987, killing 37 American sailors.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

BILL ORIGINAL YEAR

1 A bill to be entitled  
 2 An act relating to road and bridge designations;  
 3 designating the Sgt. Thomas J. Baitinger, Officer Jeffrey  
 4 A. Yaslowitz, and Officer David S. Crawford Memorial  
 5 Highway in Pinellas County; designating Edna S. Hargrett-  
 6 Thrower Avenue in Orange County; designating SP4 Thomas  
 7 Berry Corbin Memorial Highway and U.S. Navy BMC Samuel  
 8 Calhoun Chavous, Jr. Memorial Highway in Dixie County;  
 9 designating Marine Lance Corporal Brian R. Buesing  
 10 Memorial Highway, United States Army Sergeant Karl A.  
 11 Campbell Memorial Highway, and U.S. Army SPC James A. Page  
 12 Memorial Highway in Levy County; designating Veterans  
 13 Memorial Highway in Putnam County; designating Ben G.  
 14 Watts Highway in Washington County; designating Mardi Gras  
 15 Way and West Park Boulevard in Broward County; designating  
 16 Stark Memorial Drive in Duval County; designating Pembroke  
 17 Park Boulevard in Broward County revising the designation  
 18 for Miss Lillie Williams Boulevard in Miami-Dade County;  
 19 revising the designation for Father Gerard Jean-Juste  
 20 Street in Miami-Dade County; directing the Department of  
 21 Transportation to erect suitable markers; providing an  
 22 effective date.

23  
 24 Be It Enacted by the Legislature of the State of Florida:

25  
 26 Section 1. Sgt. Thomas J. Baitinger, Officer Jeffrey A.  
 27 Yaslowitz, and Officer David S. Crawford Memorial Highway  
 28 designated; Department of Transportation to erect suitable

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29 markers.-

30 (1) State Road 687 in Pinellas County from I-275 to I-175  
 31 is designated as "Sgt. Thomas J. Baitinger, Officer Jeffrey A.  
 32 Yaslowitz, and Officer David S. Crawford Memorial Highway."

33 (2) The Department of Transportation is directed to erect  
 34 suitable markers designating the Sgt. Thomas J. Baitinger,  
 35 Officer Jeffrey A. Yaslowitz, and Officer David S. Crawford  
 36 Memorial Highway as described in subsection (1).

37 Section 2. Edna S. Hargrett-Thrower Avenue designated;  
 38 Department of Transportation to erect suitable markers.-

39 (1) That portion of Orange Blossom Trail between W. Gore  
 40 Street and W. Church Street in Orange County is designated as  
 41 "Edna S. Hargrett-Thrower Avenue."

42 (2) The Department of Transportation is directed to erect  
 43 suitable markers designating Edna S. Hargrett-Thrower Avenue as  
 44 described in subsection (1).

45 Section 3. SP4 Thomas Berry Corbin Memorial Highway  
 46 designated; Department of Transportation to erect suitable  
 47 markers.-

48 (1) That portion of U.S. Highway 19/27A/98/State Road 55  
 49 between the Suwannee River Bridge and N.E. 592nd Street/Chavous  
 50 Road/Kate Green Road in Dixie County is designated as "SP4  
 51 Thomas Berry Corbin Memorial Highway."

52 (2) The Department of Transportation is directed to erect  
 53 suitable markers designating SP4 Thomas Berry Corbin Memorial  
 54 Highway as described in subsection (1).

55 Section 4. U.S. Navy BMC Samuel Calhoun Chavous, Jr.  
 56 Memorial Highway designated; Department of Transportation to

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57 erect suitable markers.-

58 (1) That portion of U.S. Highway 19/98/State Road 55  
 59 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E.  
 60 170th Street in Dixie County is designated as "U.S. Navy BMC  
 61 Samuel Calhoun Chavous, Jr. Memorial Highway."

62 (2) The Department of Transportation is directed to erect  
 63 suitable markers designating U.S. Navy BMC Samuel Calhoun  
 64 Chavous, Jr. Memorial Highway as described in subsection (1).

65 Section 5. Marine Lance Corporal Brian R. Buesing Memorial  
 66 Highway designated; Department of Transportation to erect  
 67 suitable markers.-

68 (1) That portion of State Road 24 between County Road 347  
 69 and Bridge Number 340053 in Levy County is designated as "Marine  
 70 Lance Corporal Brian R. Buesing Memorial Highway."

71 (2) The Department of Transportation is directed to erect  
 72 suitable markers designating Marine Lance Corporal Brian R.  
 73 Buesing Memorial Highway as described in subsection (1)

74 Section 6. United States Army Sergeant Karl A. Campbell  
 75 Memorial Highway designated; Department of Transportation to  
 76 erect suitable markers.-

77 (1) That portion of U.S. Highway 19/98/State Road 55/S.  
 78 Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy  
 79 County is designated as "United States Army Sergeant Karl A.  
 80 Campbell Memorial Highway."

81 (2) The Department of Transportation is directed to erect  
 82 suitable markers designating United States Army Sergeant Karl A.  
 83 Campbell Memorial Highway as described in subsection (1).

84 Section 7. U.S. Army SPC James A. Page Memorial Highway



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85 designated; Department of Transportation to erect suitable  
 86 markers.-

87 (1) That portion of U.S. Highway 27A/State Road  
 88 500/Hathaway Avenue between State Road 24/Thrasher Drive and  
 89 Town Court in Levy County is designated as "U.S. Army SPC James  
 90 A. Page Memorial Highway."

91 (2) The Department of Transportation is directed to erect  
 92 suitable markers designating U.S. Army SPC James A. Page  
 93 Memorial Highway as described in subsection (1).

94 Section 8. Veterans Memorial Highway designated;  
 95 Department of Transportation to erect suitable markers.-

96 (1) That portion of State Road 19 in Putnam County between  
 97 U.S. Highway 17/State Road 15 and Carriage Drive in Palatka is  
 98 designated as "Veterans Memorial Highway."

99 (2) The Department of Transportation is directed to erect  
 100 suitable markers designating Veterans Memorial Highway as  
 101 described in subsection (1).

102 Section 9. Ben G. Watts Highway designated; Department of  
 103 Transportation to erect suitable markers.-

104 (1) That portion of U.S. Highway 90 in Washington County  
 105 between the Jackson County line and the Holmes County line at  
 106 the Holmes Creek Bridge is designated as "Ben G. Watts Highway."

107 (2) The Department of Transportation is directed to erect  
 108 suitable markers designating Ben G. Watts Highway as described  
 109 in subsection (1).

110 Section 10. Mardi Gras Way designated; Department of  
 111 Transportation to erect suitable markers.-

112 (1) That portion of State Road 824 between I-95 and U.S.

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113 Highway 1 in Broward County is designated as "Mardi Gras Way."

114 (2) The Department of Transportation is directed to erect  
 115 suitable markers designating Mardi Gras Way as described in  
 116 subsection (1).

117 Section 11. West Park Boulevard designated; Department of  
 118 Transportation to erect suitable markers.-

119 (1) That portion of State Road 7 between Pembroke Road and  
 120 County Line Road in Broward County is designated as "West Park  
 121 Boulevard."

122 (2) The Department of Transportation is directed to erect  
 123 suitable markers designating West Park Boulevard as described in  
 124 subsection (1).

125 Section 12. Stark Memorial Drive designated; Department of  
 126 Transportation to erect suitable markers.-

127 (1) That portion of State Road 101/Mayport Road between  
 128 State Road A1A and Wonderwood Connector in Duval County is  
 129 designated as "Stark Memorial Drive."

130 (2) The Department of Transportation is directed to erect  
 131 suitable markers designating Stark Memorial Drive as described  
 132 in subsection (1).

133 Section 13. Pembroke Park Boulevard designated; Department  
 134 of Transportation to erect suitable markers.-

135 (1) That portion of State Road 858/Hallandale Beach  
 136 Boulevard between I-95 and U.S. Highway 441/State Road 7 in  
 137 Broward County is designated as "Pembroke Park Boulevard."

138 (2) The Department of Transportation is directed to erect  
 139 suitable markers designating Pembroke Park Boulevard as  
 140 described in subsection (1).

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141 Section 14. Section 24 of chapter 2010-230, Laws of  
 142 Florida, is amended to read:

143 Section 24. Miss Lillie Williams Boulevard designated;  
 144 Department of Transportation to erect suitable markers.—

145 (1) That portion of N.W. 79th Street between N.W. 6th  
 146 Avenue and N.W. 7th Avenue ~~E. 12th Avenue~~ in Miami-Dade County  
 147 is designated as "Miss Lillie Williams Boulevard."

148 (2) The Department of Transportation is directed to erect  
 149 suitable markers designating Miss Lillie Williams Boulevard as  
 150 described in subsection (1).

151 Section 15. Section 45 of chapter 2010-230, Laws of  
 152 Florida, is amended to read:

153 Section 45. Father Gerard Jean-Juste Street designated;  
 154 Department of Transportation to erect suitable markers.—

155 (1) That portion of N.W. 54th Street in Miami-Dade County  
 156 between N.W. 2nd Avenue and N.E. 3rd Avenue ~~N.W. 3rd Avenue~~ in  
 157 Little Haiti is designated "Father Gerard Jean-Juste Street."

158 (2) The Department of Transportation is directed to erect  
 159 suitable markers designating Father Gerard Jean-Juste Street as  
 160 described in subsection (1).

161 Section 16. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 601 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Highway  
2 Safety Subcommittee

3 Representative(s) Weinstein offered the following:  
4

5 **Amendment (with title amendment)**

6 Between lines 140 and 141, insert:

7 Section 14. Duval County Law Enforcement Memorial Overpass  
8 designated; Department of Transportation to erect suitable  
9 markers.-

10 (1) The Interstate 295/State Road 9A overpass (Bridge Nos.  
11 720256 and 720347) over Interstate 10/State Road 8 in Duval  
12 County is designated as "Duval County Law Enforcement Memorial  
13 Overpass."

14 (2) The Department of Transportation is directed to erect  
15 suitable markers designating Duval County Law Enforcement  
16 Memorial Overpass as described in subsection (1).  
17  
18  
19

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 601 (2011)

Amendment No. 1

20  
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**T I T L E   A M E N D M E N T**

Remove line 17 and insert:

Park Boulevard in Broward County; designating Duval County Law  
Enforcement Memorial Overpass in Duval County; revising the  
designation

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Highway  
 2 Safety Subcommittee  
 3 Representative(s) Adkins offered the following:

**Amendment (with title amendment)**

6 Between lines 140 and 141, insert:

7 Section 14. Deputy Hal P. Croft and Deputy Ronald Jackson  
 8 Highway designated; Department of Transportation to erect  
 9 suitable markers.-

10 (1) That portion of State Road 100 East from the Bradford  
 11 County line to the Columbia County line in Union County is  
 12 designated as "Deputy Hal P. Croft and Deputy Ronald Jackson  
 13 Highway."

14 (2) The Department of Transportation is directed to erect  
 15 suitable markers designating Deputy Hal P. Croft and Deputy  
 16 Ronald Jackson Highway as described in subsection (1).

Amendment No. 2

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**T I T L E   A M E N D M E N T**

Remove line 17 and insert:

Park Boulevard in Broward County; designating Deputy Hal P.  
Croft and Deputy Ronald Jackson Highway in Union County;  
revising the designation

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Highway  
 2 Safety Subcommittee  
 3 Representative(s) Adkins offered the following:

**Amendment (with title amendment)**

Between lines 140 and 141, insert:

7 Section 14. Verna Bell Way designated; Department of  
8 Transportation to erect suitable markers.-

9 (1) That portion of State Road 200 from Lime Street to  
10 Beech Street in the City of Fernandina Beach in Nassau County is  
11 designated as "Verna Bell Way."

12 (2) The Department of Transportation is directed to erect  
13 suitable markers designating Verna Bell Way as described in  
14 subsection (1).

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**T I T L E A M E N D M E N T**



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 601 (2011)

Amendment No. 3

- 20 Remove line 17 and insert:
- 21 Park Boulevard in Broward County; designating Verna Bell Way in
- 22 Nassau County; revising the designation