

Transportation

State Patrol

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LFB Summary Items for Which an Issue Paper Has Been Prepared

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Legislative Fiscal Bureau

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April 22, 2015

Joint Committee on Finance

Paper #665

State Patrol Overtime Costs (Transportation -- State Patrol)

[LFB 2015-17 Budget Summary: Page 453, #2]

CURRENT LAW

The Division of State Patrol's primary duty is the enforcement of traffic laws and commercial motor vehicle laws by conducting highway patrols and truck inspections. The State Patrol has 375 law enforcement officers classified as troopers (including ranks of trooper, sergeant, lieutenant, captain, major, and colonel), 113 who are classified as motor carrier inspectors (including ranks of inspector, sergeant, lieutenant, and captain), and the State Patrol superintendent. The Division's annual overtime salary budget of \$1,043,600 for salary and \$164,300 for fringe benefits has remained constant since 2002.

Unscheduled overtime, which is performed as needed, is frequently the result of troopers' involvement in crash response, intoxicated driver arrest, and sick leave coverage for other officers. According to the Department, in 2013-14, 75.4% of the total overtime hours worked was attributable to unscheduled activities, such as those described above. Although certain types of scheduled overtime activities are reimbursed, all unscheduled overtime is unreimbursed. Scheduled overtime, such as escorting oversized vehicles, providing traffic control services at events, and participating in federal safety initiatives, is typically reimbursed by third parties.

GOVERNOR

Provide \$1,094,900 SEG annually in 2015-17 for funding of overtime costs associated with the State Patrol's current staffing practices.

MODIFICATION

Decrease the amount provided for State Patrol overtime costs by \$58,900 SEG annually in 2015-17.

Explanation: In its budget request, DOT requested funding to support 50,000 hours of overtime per year to meet the estimated demand for unreimbursed overtime. Based on the number of employees who are eligible to receive this overtime (troopers, inspectors, and sergeants, in some circumstances), this represents an average of about 2.25 hours of overtime per week. The average overtime rate of pay is equal to \$37.64 per hour (with a fringe rate equal to 19.23% of the hourly rate). Therefore, the combined, average overtime rate for salary and fringe benefits is equal to \$44.88 per hour. At this average, hourly rate, funding 50,000 hours would require \$2,243,900 annually. State Patrol's existing, combined funding for overtime salary and fringe benefits is equal to \$1,207,900 annually. This existing level of funding supports about 26,900 hours of overtime per year. Consequently, \$1,036,000 SEG annually would be needed to fund the remaining 23,100 hours, which is \$58,900 SEG annually less than the amounts in the bill.

Change to Bill	
SEG	- \$117,800

Prepared by: John Wilson-Tepeli



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April 22, 2015

Joint Committee on Finance

Paper #666

Private Motor Carrier Definition (Transportation -- State Patrol)

[LFB 2015-17 Budget Summary: Page 455, #6]

CURRENT LAW

Under current law, "private motor carrier" means any person except a common or contract motor carrier engaged in the transportation of property by motor vehicle other than an automobile or trailer used therewith, upon the public highways. The current definition of private motor carrier does not include the transportation of passengers.

GOVERNOR

Modify the definition of "private motor carrier" to mean any person who provides transportation of property or passengers by commercial motor vehicle and is not a contract motor carrier. Specify that this change would be initially applicable to motor carrier operations on the general effective date of the bill.

DISCUSSION POINTS

1. The Department of Transportation (DOT) indicates that rather than the modification in the bill, the intent was to define a "private motor carrier" as any person who provides transportation of property or passengers by a commercial motor vehicle as described in 49 CFR Part 390.5 of the Code of Federal Regulations and is not a for-hire motor carrier. [This section of the code defines the various types of motor vehicles considered "commercial" under federal law, based on factors such as vehicle weight, capacity, and use.]

2. The intended modification reflects DOT's effort to comply with a Federal Motor Carrier Safety Administration (FMSCA) audit report, which advised that the state's current definition of private motor carrier is incompatible with federal law. The Department indicates that to be considered in compliance, FMSCA recommended that the state adopt a definition of private

motor carrier as provided in the intended modification. The Department believes that continued noncompliance with federal law could result in the loss of \$4.5 million in federal aid used for motor carrier enforcement. DOT indicates that the State of South Dakota is currently being sanctioned by FMCSA for a similar finding of noncompliance.

3. According to the Department, the intended modification would result in the following effects: (a) inclusion of the transportation of "passengers" under the definition of private motor carrier; (b) clarifying that the vehicles used by private motor carriers are commercial vehicles and defined in the related federal code; (c) tying the statutory definition of "private motor carrier" to the related federal code generally, so that the proposed state statute would remain compatible with federal law if that law is modified; and (d) requiring that vehicles carrying nine to 15 passengers for indirect compensation, with gross vehicle weight ratings of 10,000 pounds or less, must obtain and display a United States Department of Transportation number (for which there is no fee), and adhere to the other operating laws applying to such vehicles. [For example, operators of these vehicles must maintain a record of accidents and may not use handheld cellular phones or "text" while driving.]

4. According to FMCSA, "direct compensation" means "payment made to the motor carrier by the passengers or the individual acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services." By inference, "not for direct compensation" (or "indirect compensation") means compensation for highway transportation services included in a total package charge or other assessment.

5. Although vehicles described under (d) are defined as commercial, a commercial driver license is not required by state or federal law for operation of these vehicles.

6. The Department indicates that no other vehicle types would be affected by the intended modification. According to DOT, vehicles used for transportation of passengers that do not receive direct or indirect compensation, that meet the passenger capacity definition, and which are below the gross vehicle weight rating threshold specified under (d), would not be subject to any additional requirements.

ALTERNATIVES

1. Approve the Governor's recommendation, as modified to reflect the Department's intent, to define a "private motor carrier" as any person who provides transportation of property or passengers by a commercial motor vehicle as described in 49 CFR Part 390.5 and is not a for-hire motor carrier.

2. Delete provision.

Prepared by: John Wilson-Tepeli

TRANSPORTATION

State Patrol

LFB Summary Items for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	State Patrol Recruit Class Funding
3	In-Vehicle Radio Replacement
5	Require Exempt Cargo Tank Motor Vehicles to Stop at Railroad Crossings

LFB Summary Item to be Addressed in a Subsequent Paper

<u>Item #</u>	<u>Title</u>
4	Transfer of Pretrial Intoxicated Driver Intervention Grant Program

