

STORAGE NAME: h1861z.ca
DATE: May 22, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS**

BILL #: HB 1861

RELATING TO: Military Affairs/Direct Support Organization

SPONSOR(S): Representative Hart and others

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS YEAS 10 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS YEAS 4 NAYS 0
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 10
NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

The provisions of this bill passed in CS/2ND ENG/SB 1194.

This bill provides for the creation of a Department of Military Affairs direct-support organization.

This bill provides for a board of directors for the direct-support organization, restricts certain activities, requires accountability to the Adjutant General, requires a yearly audit and mandates submission of certain tax documents.

This bill has an insignificant fiscal impact. The direct-support organization is expected to subsist through fundraising, but the Department of Military Affairs may have to absorb occasional costs.

This bill provides an effective date of upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

For any principle that received a "no" above, please explain:

This bill does not support less government because it increases an authority's ability to make rules. This bill specifically permits the Adjutant General to impose rules and regulations regarding the operation of the direct-support organization.

B. PRESENT SITUATION:

Currently, there is no general law addressing the formation of direct-support organizations operating under the direction of the Adjutant General.

There are, however, provisions for direct-support organizations operating in other areas including colleges and community colleges. Sections 240.331 and 240.3315, F.S., provide for the creation of community college direct-support organizations. Section 240.331, F.S. provides that these local organizations must be not for profit corporations, appoint a board of directors, permit use of certain community college resources, and maintain fiscal accountability. Section 240.3315, F.S., authorizes the State Board of Community Colleges to certify statewide organizations as direct-support, where appropriate. Similarly, this statute authorizes use of property, provides for a board of directors, and requires budget reports and audits.

Section 240.3335, F.S., provides for the creation of centers of technology innovation. These centers are designated by the State Board of Community Colleges and are housed in community colleges or other educational facilities.

C. EFFECT OF PROPOSED CHANGES:

According to the Department of Military Affairs (DMA), the Florida National Guard Foundation (Foundation) is a not for profit corporation that has functioned in direct support of the DMA and the Florida National Guard (FNG) since 1983. A primary purpose of the Foundation is assisting FNG members and their families in times of need.

This bill creates a direct-support organization for the DMA, which makes the relationship between the DMA and the Foundation an official one. The direct-support organization created is permitted to rely on existing DMA resources, but the not for profit corporation status enables the organization to continue to be as self-sufficient as possible.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Creates s. 250.115, F.S., and provides the following:

- (1) Defines a direct-support organization as:
- a Florida not for profit corporation;
 - incorporated under Ch. 617, F.S.; and
 - approved by the Department of State.

For the purposes of this section, a direct-support organization has authority to:

- be organized and operated exclusively to raise money;
- request and receive grants, gifts, and bequests of money;
- purchase, accept or administer securities, funds or property in its own name;
- and make expenditures for the benefit of the DMA or the FNG.

Finally, for this section, a direct-support organization must be determined by the DMA to be operating consistently with the goals of the DMA and the FNG and in the best interest of the state. If the direct-support organization does not receive certification by the Adjutant General, it may not use the name of the FNG or the DMA in its name or publications.

This bill defines “personal services” as including full or part-time personnel and payroll processing.

- (2) This bill authorizes a board of directors and provides that the board president is the Adjutant General or his or her designee. The Adjutant General shall appoint up to 15 members and the board is authorized to select up to 15 additional members. All members shall serve for a 3 year term of office. Members must be Florida residents with knowledge about the U.S. military and have a background in community service. This bill authorizes the Adjutant General to remove any member for cause and to fill vacancies that occur.
- (3) Allows the Adjutant General to authorize the use of DMA property and personal services by the direct-support organization, subject to Adjutant General’s restrictions; clarifies that no direct-support organization can use these facilities or services if it fails to provide equal employment opportunities.
- (4) Requires approval by the Adjutant General for any transaction or agreement between the direct-support organization organized pursuant to this section and another direct-support organization or center of technology innovation, as designated by the State Board of Community Colleges.
- (5) Requires the direct-support organization to submit its Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990) to Adjutant General.
- (6) Requires yearly postaudit of financial accounts by an independent CPA in accordance with the rules promulgated by the Adjutant General. The annual audit report shall be submitted to both the Adjutant General and Auditor General and either may request additional information relative to the operation of the direct-support organization.

Section 2 Provides for an effective date of upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There is a minimal fiscal impact to this bill and any such costs will be fully absorbed by the Department of Military Affairs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is no direct economic impact on the private sector.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill provides the Adjutant General with rule-making authority relating to the operation of the direct-support organization. The Adjutant General is granted authority to prescribe rules regarding the use of property, facilities, and personal services of the DMA by the direct-support organization. The bill contains clear language addressing other specific powers and duties of both the Adjutant General and the DMA as they relate to the direct-support organization.

C. OTHER COMMENTS:

This Department and the Foundation support this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Cindy M. Brown, J.D.

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Amy K. Tuck

Staff Director:

Jimmy O. Helms

AS FURTHER REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:

Loretta J. Darity

Staff Director:

Eliza Hawkins

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Cindy M. Brown, J.D.

Staff Director:

Joan Highsmith-Smith