

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

BILL: CS/SB 1972

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Aronberg

SUBJECT: Veterans

DATE: April 12, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Pardue	MS	Favorable
2.	McKay	Wilson	GO	Fav/CS
3.	Hansen	Hansen	HA	Favorable
4.			WPSC	
5.				
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
 B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

This bill amends the eligibility criteria and policy for admittance to the state’s veterans’ homes, and revises the definition of the term “service-disabled veteran” for purposes of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act. The bill exempt veterans’ service organizations that have been granted a federal charter under Title 36, U.S.C., from the registration requirements applicable to charitable organizations in Ch. 496, F.S.

According to the Department of Veterans’ Affairs, the bill has no fiscal impact with regards to admission to veterans’ nursing homes since the bill conforms statute to current practice regarding admission policies. Exempting veterans’ service organizations from the registration requirements of Ch. 496, F.S., will reduce collections to the Department of Agricultural and Consumer Services General Inspection Trust Fund by an estimated \$41,660.

This bill amends the following sections of the Florida Statutes: 295.187, 296.06, and 296.36.

II. Present Situation:

Charitable Organizations

Chapter 496, F.S., requires charitable organizations that solicit funds in Florida to register with the Department of Agriculture and Consumer Services (DACS), and provide certain financial and background information. Before engaging in solicitation, they are required to file an initial registration statement, an annual renewal statement, and an annual financial report with the DACS.¹ Registration statements must contain prescribed information² and be accompanied by the appropriate fee.³

Every charitable organization, or its parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register, must pay a single registration fee. A parent organization must total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees are assessed as follows:

Ten dollars:

- if contributions received during the last fiscal or calendar year were less than \$5,000; or
- if the contributions from the public during the immediately preceding fiscal year were no more than \$25,000, and,
- fundraising was carried on by volunteers, members, officers, or permanent employees, who were not compensated, primarily to solicit contributions, and,
- none of the organization's assets or income inured to the benefit of any of its officers or members or any professional fundraising consultant, professional solicitor, or commercial co-venturer;

However, if a registrant does not meet the conditions for paying the ten dollar registration fee, then the applicable fee depends on the total contributions raised during the last fiscal year:

- Seventy-five dollars, if contributions were \$5,000 or more, but less than \$100,000;
- One hundred twenty-five dollars, if contributions were \$100,000 or more, but less than \$200,000;
- Two hundred dollars, if contributions were \$200,000 or more, but less than \$500,000;
- Three hundred dollars, if contributions were \$500,000 or more, but less than \$1,000,000;
- Three hundred fifty dollars, if contributions were \$1,000,000 or more, but less than \$10,000,000; or,
- Four hundred dollars, if the contributions were \$10,000,000 or more.

A charitable organization may be assessed a \$25 fee for each month of late filing after the date on which the annual renewal statement and financial report were due to be filed with the DACS.⁴

Currently, there are three types of fundraising activities that are exempt from the registration and reporting requirements of Chapter 496:

¹ Section 496.405(1), F.S.

² Section 496.405(2), F.S.

³ Section 496.405(4)(a), F.S.

⁴ Section 496.405(4)(b), F.S.

- Applying for a grant or award from the government or from certain other groups that are tax exempt under the Internal Revenue Service Code (IRS Code);⁵
- Soliciting for the benefit of a named individual (i.e., raising money for an individual's transplant operation);⁶
- Soliciting by an organization that is limited solely to seeking contributions from its own membership.⁷

Title 36 Organizations

Currently, Title 36, Subtitle II, Part B of the U.S. Code lists national or patriotic non-profit corporations who have been granted corporate charters by act of Congress and whose primary purpose is to promote patriotic, charitable, educational, or other eleemosynary activities.

Generally, these chartered organizations are referred to under any of three terms:

“Congressionally chartered organizations,” “Title 36 corporations,” and “patriotic societies.” The corporations listed in Title 36 are not agencies of the United States, and the charter does not assign any governmental attributes.⁸ Many of these organizations are military veteran services oriented organizations.

Currently, federal supervision of congressionally chartered nonprofit organizations is limited. All “private corporations established under federal law,” as defined and listed in Subtitle II, are required to have independent audits annually, and to have the reports of the audits submitted to Congress.⁹ Such organizations are also required to submit annual reports of their activities to Congress.

Florida Service-Disabled Veteran Business Enterprises

Section 295.187, F.S., establishes a program for service-disabled veteran business enterprises. Under the provisions of this section, state agencies are directed, when evaluating bids, proposals, or replies for the procurement of commodities or contractual services, to give award preference to service-disabled veteran business enterprises if the bids, proposals, or replies are equal with respect to all relevant considerations including price, quality, and service.

According to the Department of Management Services, there are 257,000 veteran-owned businesses in Florida, of which 18,000 are owned by service-disabled veterans.¹⁰

Florida's Veterans' Homes

The Florida Department of Veterans' Affairs (FDVA) operates one domiciliary facility and five nursing homes for Florida's veterans in need of long-term care.¹¹ The domiciliary provides

⁵ Section 496.405(20), F.S.; see, “flush-left” language at end of subsection.

⁶ Section 496.406(1), F.S.

⁷ Section 496.406(2), F.S.

⁸ CRS Report for Congress, Congressionally Charters Nonprofit Organizations (“Title 36 Corporations”): What They Are and how Congress Treats Them; Updated April 8, 2004; Ronald C. Moe, Consultant in American National Government

⁹ 36 U.S.C. 10101

¹⁰ Department of Management Services website located at:

http://dms.myflorida.com/business_operations/state_purchasing/myflorida_marketplace/mfmp_in_the_news/11_11_08_service_disabled_veteran_business_enterprises, last viewed on March 2, 2010.

rehabilitative assistance and other therapeutic measures to eligible ambulatory veterans who are not in need of hospitalization or skilled nursing services. The state's veterans' nursing homes provide skilled nursing care in a full-service long-term residential setting.¹²

The following table shows each facility's maximum capacity and average occupancy.

Facility	Capacity	Average Occupancy
Lake City Domiciliary	150	109*
Daytona Beach	120	97*
Land O' Lakes	120	114
Pembroke Pines	120	115
Springfield	120	116
Port Charlotte	120	117

Source: Florida Department of Veterans' Affairs

*During the 2008-2009 reporting time-frame, renovations reduced the capacity of the Lake City domiciliary to 113 beds, while the Daytona Beach nursing home's maximum capacity was reduced to 100 beds.¹³

Current law provides that those eligible for state veteran's home admittance must:

- Have wartime service or peacetime service as defined in ss. 1.01(14) and 296.02, F.S.;
- Have been a resident of the state at the time of application and for one year immediately preceding application;
- Not be mentally ill, habitually inebriated, or addicted to drugs;
- Not owe money to the Department of Veterans' Affairs for services rendered during any previous stay at a department facility; and
- Have applied for all financial assistance reasonably available through government sources.¹⁴

Current law also provides an admittance priority order. Those eligible for priority admittance must:

- Be an eligible veteran who is a resident of the State of Florida;
- Have a service-connected disability as determined by the United States Department of Veterans Affairs, or have been discharged or released from military service for disability incurred or aggravated in the line of duty and the disability is the condition for which nursing home care is needed; and
- Be an eligible veteran who has a non-service-connected disability and is unable to defray the expense of nursing home care and so states under oath before a notary public or other officer authorized to administer an oath.¹⁵

¹¹ The domiciliary is located in Lake City while the nursing homes are located in Daytona Beach, Land O' Lakes, Pembroke Pines, Springfield, and Port Charlotte. A sixth nursing home is due to open in St. Augustine in 2010 with an additional 120 bed capacity.

¹² Florida Department of Veterans' Affairs Annual Report dated December 31, 2009, located at http://www.floridavets.org/pdf/ann_rprt_09.pdf, last viewed on February 25, 2010.

¹³ Id.

¹⁴ Section 296.06, F.S.

¹⁵ Section 296.36, F.S.

In the context of federal government usage, the term “service-connected” means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.¹⁶

FDVA officials have informed professional staff of the Committee on Military Affairs and Domestic Security that current U. S. Department of Veterans Affairs (USDVA) policy requires a veteran seeking admittance to a state home to be seen by a USDVA physician for a determination of the need for nursing home residency.

III. Effect of Proposed Changes:

Section 1 amends s. 496.406, F.S., to exempt veterans’ service organizations that have been granted a federal charter under Title 36, U.S.C., from the registration requirements applicable to charitable organizations in Ch. 496, F.S.

Section 2 amends s. 295.187(3)(b), F.S., to redefine the term “service-disabled veteran,” by eliminating the “10 percent or greater” service-connected disability criteria, thus aligning the state’s definition with the federal definition.

Section 3 amends s. 296.06(2), F.S., to add an additional eligibility requirement to the state’s policy for admittance to the state veterans’ nursing homes. The bill aligns state policy with federal policy by requiring that a veteran must have been approved as eligible for care and treatment by the United States Department of Veterans Affairs.

Section 4 amends s. 296.36(1), F.S., to align it with the language found in s. 296.02, F.S., by including the term “peacetime service” as part of the definition of the term “veteran,”¹⁷ and requiring that a veteran must have been approved as eligible for care and treatment by the United States Department of Veterans Affairs.

Section 5 provides for an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

¹⁶ 38 USC 101(16).

¹⁷ The term “veteran” is used in determining eligibility for admittance to the state’s veterans’ homes. “Peacetime Service” as defined in s. 296.02, F.S., means Army, Navy, Marines, Coast Guard, or Air Force service that is not during a wartime era as defined in s. 1.01(14), F.S.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill exempts veterans' services organizations from the registration requirements of Ch. 496, F.S., which includes a fee that ranges from \$10 to \$400 based on the amount of the charitable contributions collected by the organization. This exemption will reduce collections to the Department of Agricultural and Consumer Services General Inspection Trust Fund by an estimated \$41,660.

B. Private Sector Impact:

Veterans' services organizations will be exempt from the registration fee specified in "A" above.

C. Government Sector Impact:

According to the Department of Veterans' Affairs, the bill has no fiscal impact with regards to admission to veterans' nursing homes since the bill conforms statute to current practice regarding admission policies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on March 23, 2010:

The CS adds a provision that veterans' service organizations granted a federal charter under Title 36, U.S.C., are exempt from the registration requirements applicable to charitable organizations in Ch. 496, F.S.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
