

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7129 PCB MLA 10-07 Military Support

SPONSOR(S): Economic Development & Community Affairs Policy Committee; Military & Local Affairs Policy Committee; Hukill and Murzin

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Military & Local Affairs Policy Committee	12 Y, 0 N	Fudge	Hoagland
1)	Economic Development & Community Affairs Policy Council	15 Y, 0 N, As CS	Fudge	Tinker
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Military related activity has a significant positive impact on Florida's economy. In 2005, it represented an estimated \$52 billion in gross state product and more than 732,300 jobs and \$1 billion in state and local tax revenues. Florida has shown support for this military presence through numerous legislative actions, including requiring compatibility of land uses to minimize encroachment, prioritizing the purchase of state lands to serve as buffer areas, providing tax relief and financial benefits for military personnel and retirees, providing educational benefits and family support.

This proposed committee bill continues that commitment to the military presence in Florida. The proposed committee bill:

- Strengthens existing encroachment and compatibility provisions in the Growth Management Act.
- Specifies the installations and local governments subject to the requirements to improve communication between the bases and the local governments, and provides criteria to address compatibility in the future land use.
- Clarifies the factors to be considered in developing criteria.
- Provides a process if local governments fail to meet the future land use element requirements by June 30, 2012, to require mediation and ultimately the potential for sanctions from the Administration Commission.
- Expands notification of land use activities by requiring copies of applications for proposed development orders that request waivers from height and lighting restrictions and noise attenuation requirements to be submitted to the base commander upon request.
- Clarifies that active duty members of the armed forces and their spouses may continue to receive a homestead exemption when the service member is deployed.
- Revises those institutions where the Education Dollars for Duty Program may be used.
- Authorizes the establishment of a second Assistant Adjutant General Army position at the state's National Guard Joint Forces Headquarters. The additional position is federally funded and, therefore, has no fiscal impact on state funds.
- Creates a temporary professional license for spouses of active duty members of the Armed Forces of the United States who have been assigned to a duty station in Florida.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Military related activity has a significant positive impact on Florida's economy. In 2005, it represented an estimated \$52 billion in gross state product with more than 732,300 jobs and \$1 billion in state and local tax revenues. Florida has shown support for this military presence through numerous legislative actions, by requiring compatibility of land uses to minimize encroachment, prioritizing the purchase of state lands to serve as buffer areas, providing tax relief and financial benefits for military personnel and retirees, and providing educational benefits and family support.¹

Current Law Regarding Land Use Compatibility and Encroachment

In 2004, the Legislature passed provisions to address the interface between local government land use actions and military base encroachment concerns. Section 163.3175, F.S., requires the exchange of information between local communities and military installations when land use decisions may affect operations at an installation. Section 163.3175, F.S., also specifies issues that the installation's commanding officer may address in commenting on a proposed land use change and requires a local government to consider the commanding officer's comments. It also requires a representative of the military installation to be included as an ex-officio, nonvoting member of the affected local government's land planning or zoning board.

In addition, s. 163.3177(6)(a), F.S., requires a local government to amend the future land use plan element of its comprehensive plan to address the compatibility of future uses on lands adjacent or closely proximate to military installations and to include criteria to achieve that compatibility. In 2004, local governments were directed to amend their plans by June 30, 2006. This date was later changed to June 30, 2012.

In 2008, the Florida House of Representatives Committee on Military & Veterans' Affairs, conducted an interim project on military base encroachment.² The Survey of Local Governments distributed as part

¹ Florida Defense Industry Economic Impact Analysis, Dr. Rick Harper, Director of the University of West Florida Haas Center, November 4, 2009, presentation to the Florida House of Representatives Committee on Military & Local Affairs.

² The results of the 2008 Committee on Military & Veterans' Affairs interim project are found in "Military Encroachment: A White Paper" available at:

<http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2345&Session=2008&DocumentType=Reports&FileName=Military Base Encroachment.pdf>

of this project asked whether each local government complied with statutory requirements to amend their comprehensive plan by June 30, 2006, to address military compatibility issues. According to the survey responses, 10 counties and 14 cities reported that they had not complied with the statutory requirement to update their comprehensive plans to include military compatibility criteria (8 counties and 7 cities had adopted updates by 2008). The DCA reports that “[a]bout 75% of the affected local governments have missed the June 30, 2006 due date, probably because there is no consequence to them of doing so.”

The 2008 Survey of Military Installations distributed as part of this project sought to determine whether local governments were complying with the statutory requirement of providing information to military installations regarding the adoption of comprehensive plans, amendments, or land use regulations. According to survey responses from the Air Force and Navy, the local governments appeared to generally comply with statutory requirements and consider the military’s comments during the planning process.

**MILITARY BASE COORDINATION AND COMPATIBILITY
LOCAL GOVERNMENT IMPLEMENTATION STATUS AS OF JANUARY 13, 2010³**

STATUS	LOCAL GOVERNMENTS	TOTAL
Completed Planning Board Appointment and Plan Amendment	Bradford County Brevard County Escambia County Gulf County Highlands County Homestead Jacksonville-Duval County Marion County Parker Santa Rosa County Satellite Beach (3175 coordination only; amendment not needed) Volusia County	12
Adopted Amendment Under Review	Clay County (NOI publication date 1/29/10)	1
Partially Completed	Okaloosa County (only coordination policies adopted) Tampa (only coordination policies adopted) Mexico Beach (does not address the entire city)	3
Amendment Proposed, but not yet adopted	Putnam County (proposed in 2007)	1
Joint Land Use Study Recently Completed, but Amendment Not Yet Submitted	Bay County Panama City Panama City Beach Cinco Bayou Crestview Destin	15

³ Department of Community Affairs

	Fort Walton Beach Laurel Hill Mary Esther Niceville Shalimar Valparaiso Walton County DeFuniak Springs Freeport	
Waiting for Joint Land Use Study to be Completed	Avon Park Frostproof Okeechobee County Osceola County Polk County Sebring	6
No Action	Key West Lake County Monroe County Miami-Dade County	4

Effect of Proposed Changes

This proposed committee bill strengthens existing encroachment and compatibility provisions in the Growth Management Act.

The bill replaces general definitions in s. 163.3175(7), F.S., regarding “affected local governments” as a municipality “adjacent to or in close proximity to...” a “military installation” by identifying specific installations and local governments which are required to disclosure certain information to improve communication between the bases and the local governments, and providing criteria to address compatibility in the future land use.

The proposed committee bill amends s. 165.3177(6)(a), F.S., relating to future land use elements to clarify the factors to be considered in developing criteria for compatibility.

A process for addressing non-compliance is provided which requires mediation, conducted by the regional planning council, to commence between the local governments, military installations, state land planning agency and other parties, including private land owners. The bill also provides that the state land planning agency may report the local government to the Administration Commission for failure to include criteria into its local government comprehensive plan by December 31, 2013. The Administration Commission is provided the authority to specify remedial action and impose sanctions including direction to state agencies not to provide funds for infrastructure projects, grant programs, and withholding revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and chapter 212, F.S. These changes to law are not intended to result in any of the local governments that have complied with the 2004 requirements to further amend their comprehensive plans prior to 2012.

The proposed committee bill further expands notification of land use activities by requiring copies of applications for development orders that request waivers from height and lighting restrictions and noise attenuation reduction requirements to be submitted to the base commander upon request.

Current Law Regarding Active Military Personnel Deployed Outside the State

Section 196.061, F.S., provides that rental of a dwelling previously claimed to be a homestead constitutes abandonment. However, this provision does not apply to a member of the Armed Forces

whose service is a result of a mandatory obligation imposed by the Selective Service Act or who volunteers for service as a member of the Armed Forces.⁴

Several property appraisers permit active duty members to rent their homesteads and retain their homestead exemption if they are transferred out of the area on orders and notify the property appraiser.⁵ However, there has been situations where the property is owned by one of the spouses prior to marriage. Once married, the other spouse is not added to the deed. The original owner (yet to be a spouse) would have applied and began receiving homestead prior to marriage. The concern is that when the spouse, who is not on the deed, is ordered overseas and the other spouse (original owner) goes with him or her may not be able to rent the property without losing the homestead exemption.

Effect of Proposed Change

The bill clarifies that the provision of s. 196.061, F.S., apply to military members and their spouses and that valid military orders deploying such member is sufficient to maintain permanent residence, for purposes of s. 196.015, F.S., for the member and his or her spouse.

Additional Assistant Adjutant General Army

Florida is one of 15 states that have undergone a restructuring of its Army National Guard Enhanced Infantry Brigade. The Enhanced Infantry Brigade is composed of approximately 3,500 soldiers and, until recently, has been commanded by an officer in the rank of Brigadier General. The new organizational structure replicates the active duty Army's Infantry Brigade Combat Team and will now be commanded by an officer with the rank of colonel.

States such as Florida have been allowed to transfer the former Infantry Brigade General Officer position to the state's National Guard Joint Forces Headquarters as an additional Assistant Adjutant General Army position. With more than 10,000 Florida Army National Guard soldiers currently serving, authorization for two Army officers serving in the grade of Brigadier General is consistent with authorizations in other states with similar forces.

Effect of Proposed Changes

The bill amends s. 250.10, F.S., to authorize the Adjutant General of the Florida National Guard to appoint a federally recognized officer to a second position of Assistant Adjutant General Army. Such appointment is subject to confirmation by the Senate. The appointee must have served in the Florida Army Guard for the preceding five years and have attained the rank of colonel or higher at the time of appointment.

Military Spouses/Professional Licensure

Section 455.02, F.S., applies to licensees who are members of the armed forces on active duty who are absent from the state and not practicing their profession in the private sector. This statute applies to numerous professions regulated by DBPR but not all professions.

The member/licensee is exempted from license renewal requirements for the duration of active duty while absent from the state of Florida, and for a period of six months after discharge or return to the state, and not practicing the profession.

⁴ In 1971, the Attorney General concluded that a service member is entitled to a homestead exemption even though he may be transferred elsewhere during his ownership, and rental of such property does not constitute abandonment. Op. Att'y Gen. Fla. 71-055 (1971).

⁵ For example, the Osceola County Property Appraiser states that "if you are a member of the armed forces on active military duty, you are permitted to rent your home, but you must notify the office in advance and provide your military orders."

<http://www.osceola.org/index.cfm?IsFuses=department/PropertyAppraiser/HomesteadExemption>, last visited on March 5, 2010.

Section 455.02(2), F.S., authorizes the Boards under the Division of Professions within the Department of Business and Professional Regulation to promulgate rules exempting spouses of members of the Armed Forces from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

In addition, many of the professions in Florida have an endorsement provision as a part of their licensing authority that allows for the acceptance of an active out-of-state practitioner in good standing to be qualified to be licensed in Florida based on the out-of-state license criteria, i.e. barbering. Similarly, many of the professions in Florida provide for "a reciprocal agreement" between professions in different states to allow licensure of out-of-state practitioners by reciprocity based on similar licensing qualifications, i.e. construction contracting.

However, there are no provisions allowing spouses of active duty military personnel, who are relocating to Florida, to practice their profession by using a temporary Florida license issued based on license qualification of the applicants' home state.

Effect of proposed changes

The bill creates a temporary professional license for spouses of active duty members of the Armed Forces of the United States who have been assigned to a duty station in Florida pursuant to his or her spouse's official active duty military orders. The spouse must hold a valid out-of-state license and submit to a criminal background check. The nonrenewable temporary license allows the spouse to work in his or her respective profession for six months from the date of issuance of the temporary license.

Education Dollars for Duty Program

The Florida Department of Military Affairs administers the Educational Dollars for Duty (EDD) program. The EDD program was created in 1997 to provide educational benefits to certain active Florida National Guard members and is subject to annual appropriations. The Department of Military Affairs may pay the full cost of tuition and fees for required courses for current members of the Florida National Guard at an institution which has been accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS).

Effect of Proposed Changes

The bill revises the list of institutions where the EDD program may be used by removing the SACS accreditation requirement and replacing it with accreditation by an accrediting body recognized by the United States Department of Education or licensed by the Florida Commission for Independent Education.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3175, F.S., identifying local governments and military installations subject to coordination and growth management provisions prescribing the information that must be provided to the commanding officer of the military installation upon request; requiring mediation and provides for sanctions.

Section 2: Amends s. 163.3177, F.S., by enumerating factors to consider in determining compatibility.

Section 3: Amends s. 196.061, F.S., to clarify that valid military orders transferring a member of the Armed Forces are sufficient to maintain permanent residency, for purposes of s. 196.015, F.S., for the member and his or her spouse.

Section 4: Amends s. 455.02, F.S., to create a temporary professional license classification for spouses of active duty members of the Armed Forces of the United States who have been assigned to a duty station in Florida.

Section 5: Amends s. 250.10, F.S., revising those institutions where the Education Dollars for Duty Program may be used and authorizing the Adjutant General of the Florida National Guard to appoint a federally recognized officer to a second position of Assistant Adjutant General Army.

Section 6: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Temporary Professional Licenses

The Florida Department of Law Enforcement will receive \$24 for each background check, which is deposited into the FDLE Operating Trust Fund.

2. Expenditures:

Temporary Professional Licenses

There is no fiscal impact associated with this provision.⁶

Additional Assistant Adjutant General Army

This position is federally funded and there is no additional cost to the state.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be minor costs associated with transmission of certain applications for development orders.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the military is a \$60 billion industry, the bill helps ensure the continued presence of the military by facilitating communication between military installations and local governments. Action taken to protect or increase the military presence in Florida will have a positive impact on the private sector. However, encroachment may negatively impact individual property owners.

The bill will ensure that active duty members of the Armed Forces and his or her spouse will not lose their homestead exemption when the member is deployed out of the state. The bill also allows the spouses of members of the Armed Forces who are on active duty in the state, to receive a temporary professional license. The fee for a background check is \$43.25, which is a cost to the private sector.

D. FISCAL COMMENTS:

None.

⁶ Department of Business and Professional Regulation Substantive Bill Analysis for HB 713 dated February 2, 2010 (on file with the Full Appropriations Council on General Government & Health Care).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties 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:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2010, the Military & Local Affairs Policy Committee adopted three amendments. The amendments:

- corrected the list of local governments affected by military installations;
- corrected terminology relating to noise attenuation reduction; and
- clarified that only the servicemember receives military orders.

On March 25, 2010, the Economic Development & Community Affairs Policy Council adopted two amendments. The amendments:

- removed Gulf County from the list of local governments affected by Tyndall Air Force Base; and
- increased the eligible institutions where the Education Dollars for Duty Program may be used.