

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 Community Affairs Committee

BILL: CS/SB 1110

INTRODUCER: Military Affairs, Space & Domestic Security Committee and Senator Dean

SUBJECT: Commemoration of the 40th Anniversary of U.S. Involvement in the Vietnam War

DATE: April 5, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Fav/CS
2.	Wood	Yeatman	CA	Pre-meeting
3.			BC	
4.				
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 designates March 25, 2013, the 40th anniversary of the end of the United States’ involvement in the Vietnam War, as a legal holiday. This bill also directs the Governor to proclaim March 29 of each year to be “Vietnam Veterans’ Day,” which shall commence on March 29, 2014. This date is to be annually observed throughout Florida as a day honoring the veterans who served in the United States Armed Services during the Vietnam Era. Additionally, this bill:

- Directs the Florida Department of Veterans’ Affairs to administratively promote and support the efforts of counties, municipalities, and bona fide veterans’ organizations that voluntarily hold special community events commemorating “Vietnam Veterans’ Day;”
- Creates a special volunteer advisory board to make recommendations as to the activities conducted to commemorate “Vietnam Veterans’ Day;” and
- Directs the Florida Department of Highway Safety and Motor Vehicles to develop a “Vietnam Veterans” license plate.

This bill creates the following sections of the Florida Statutes: 683.025 and 292.075. This bill substantially amends the following sections of the Florida Statutes: 320.08056, 320.08058, and 683.01.

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

II. Present Situation:

Legal Holidays and Special Observance Days

Chapter 683, F.S., establishes legal holidays and special observance days. Legal holidays and special observance days may apply throughout the state or they may be limited to particular counties. For example, “Gasparilla Day”¹ is a legal holiday observed only in Hillsborough County, while “Bill of Rights Day,”² if issued by the Governor, is observed throughout the state. Also, designation of a day as a legal holiday does not necessarily make that day a paid holiday for public employees. Section 110.117, F.S., establishes which legal holidays are paid holidays for public employees.³

The legal holidays established in s. 683.01(1), F.S., are:

- (a) Sunday, the first day of each week.⁴
- (b) New Year’s Day, January 1.
- (c) Birthday of Martin Luther King, Jr., January 15.
- (d) Birthday of Robert E. Lee, January 19.
- (e) Lincoln’s Birthday, February 12.
- (f) Susan B. Anthony’s Birthday, February 15.
- (g) Washington’s Birthday, the third Monday in February.
- (h) Good Friday.
- (i) Pascua Florida Day, April 2.⁵
- (j) Confederate Memorial Day, April 26.
- (k) Memorial Day, the last Monday in May.
- (l) Birthday of Jefferson Davis, June 3.
- (m) Flag Day, June 14.
- (n) Independence Day, July 4.
- (o) Labor Day, the first Monday in September.
- (p) Columbus Day and Farmers’ Day, the second Monday in October.
- (q) Veterans’ Day, November 11.

Specialty License Plates

The Florida Legislature created the first specialty license plate in 1986. Specialty license plates are available for an annual use fee to any owner or lessee of a motor vehicle. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to a specified organization in support of the particular cause or charity signified in the

¹ Section 683.08, F.S.

² Section 683.25, F.S.

³ Section 110.117(1), F.S., provides the following holidays as paid holidays for all state branches and agencies: New Year’s Day; Martin Luther King Birthday; Memorial Day; Independence Day; Labor Day; Veteran’s Day; Thanksgiving Day and Friday after Thanksgiving; and Christmas Day.

⁴ Sunday as a holiday has its origins in the Christian Sabbath or day of rest.

⁵ “Pascua Florida” is a Spanish term that means *flowery festival* or *feast of flowers*. It usually refers to the Easter season, though, “Pascua” can, depending on the context, refer to the Jewish Passover, Easter, Christmas, Epiphany or Pentecost. See, <http://www.answers.com/topic/pascua-florida>. April 2 each year is designated as “Florida State Day” and is known as “Pascua Florida Day.” Juan Ponce de León called the land he encountered in 1513 “Pascua florida.” The holiday is to be observed in the same manner as a “patriotic occasion.”

plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Section 320.08053, F.S., provides that an organization seeking authorization to establish a specialty license plate must submit the following:

- A request for the particular license plate with a description of the proposed plate in specific terms, including a sample plate conforming to the specifications set by the Department of Highway Safety and Motor Vehicles (DHSMV);
- An application fee, not to exceed \$60,000, to defray the DHSMV's cost for reviewing the application and developing the specialty license plate, if authorized; and
- A marketing strategy outlining both the short and long term marketing plans, and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenue from the requested specialty license plate.

The required documentation and fees must be submitted at least 90 days before the convening of the next regular session of the Florida Legislature. If a specialty license plate is approved by law, the organization must submit a proposed art design for the specialty plate to the DHSMV no later than 60 days after the act becomes a law. If the specialty license plate is not approved by the Legislature, the application fee is refunded to the requesting organization.

In 2010, the Legislature amended s. 320.08053, F.S., to establish presale requirements for specialty license plates that have been approved by the Legislature. Section 320.08053(3), F.S., requires the DHSMV to establish a method to issue a specialty license plate voucher to allow for the presale of an approved specialty license plate, within 120 days following the specialty license plate becoming law. Within 24 months after the presale specialty license plate voucher is established, the approved specialty license plate organization must record with the DHSMV at least 1,000 voucher sales before manufacture of the license plate may commence. If the minimum sales requirements have not been met after the 24-month presale period, the specialty license plate is deauthorized and the DHSMV must discontinue development of the plate and discontinue issuance of the presale vouchers.

In 2008, the Legislature passed SB 1992 (ch. 2008-176, Laws of Florida), which established a moratorium on the issuance of specialty plates by the DHSMV. The 2010 Legislature created chapter 2010-233, Laws of Florida, to extend the moratorium to July 1, 2014. The moratorium contains an exception "for [any] specialty license plate proposal which has submitted a letter of intent to the DHSMV prior to May 2, 2008" or "which was included in a bill filed during the 2008 Legislative Session."⁶

The DHSMV is authorized to annually retain the first proceeds derived from the annual use fees collected in an amount sufficient to defray each specialty plate's pro rata (proportionate) share of the DHSMV's costs directly related to issuing the specialty license plate. A person wishing to purchase a specialty license plate must pay, in addition to the required license plate fee and license tax, a license plate annual use fee (from \$15 to \$25) and a processing fee of \$5.

⁶ Section 21, ch. 2010-223, L.O.F.

Annual use fees and any interest earned from those fees may be used by the authorized organization for public or private purposes. However, the annual fees may not be used for commercial or for-profit activities or for general administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).

Section 320.08058, F.S., lists the approved specialty license plates and specifies funding requirements.

Section 320.08062, F.S., requires all organizations receiving annual use fee proceeds from the DHSMV to be responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S. Each organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly. The DHSMV can examine all records pertaining to the use of specialty license plate revenues.

United States Involvement in Vietnam War

The United States supported South Vietnam from the beginning of the war until its end on May 7, 1975. The U.S. Congress and President have defined the Vietnam era as beginning February 28, 1961, and ending on May 7, 1975.⁷ This is the period used to determine qualification for veterans' benefits. The Vietnam Veterans Association likewise uses this period to determine eligibility for membership.⁸ Approximately 2.7 million American men and women served in the Vietnam War, and over 50,000 U.S. lives were lost as a result of combat-related deaths in fighting that spread throughout Cambodia, Laos, and Vietnam.

United States involvement in the Vietnam War began to decline with the signing of the Paris Peace Accords on January 27, 1973. All U.S. ground troops were to be withdrawn from Vietnam by March 30, 1973. The U.S. Congress passed the Case-Church amendment on June 4, 1973, prohibiting direct U.S. intervention beginning August 15, 1973. The U.S. continued bombing North Vietnamese installations until August 14, 1973. Thousands of civilian and support personnel remained in South Vietnam through the end of the war and the U.S. continued giving financial aid to South Vietnam. The last U.S. diplomatic, military, and civilian personnel were evacuated on April 30, 1975.

Federal Recognition

On March 7, 2011, the 112th U.S. Congress passed a resolution declaring March 30, 2011, to be "Welcome Home Vietnam Veterans Day." This resolution encourages states to establish the holiday as well. The resolution states that "on March 30, 1973, the United States Armed Forces completed the withdrawal of combat units and combat support units from South Vietnam."⁹

⁷ U.S. Code of Federal Regulations, Title 45, Volume 3, Sec. 506.10, "Vietnam Conflict" defined, *available at* <http://frwebgate2.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=xr1v3B/30/1/0&WAIAction=retrieve>

⁸ Vietnam Veterans Association, *Membership Brochure*, http://www.vva.org/member_brochure.html (last visited April 05, 2011).

⁹ S.R. 55, 112th Cong. (March 7, 2011).

III. Effect of Proposed Changes:

Section 1 amends s. 683.01, F.S., designating March 25, 2013,¹⁰ the 40th anniversary of the end of the United States' involvement in the Vietnam War, as a legal holiday.

Section 2 creates s. 683.025, F.S., designating March 25, 2013, as the date which the 40th anniversary of the end of the United States' involvement in the Vietnam War is to be commemorated. This bill further directs the Governor to proclaim March 29 of each year to be "Vietnam Veterans' Day," which shall commence on March 29, 2014. This date is to be annually observed throughout the state as a day honoring the veterans who served in the United States Armed Services during the Vietnam Era.

Section 3 creates s. 292.075, F.S., directing the Florida Department of Veterans' Affairs to administratively promote and support the efforts of counties, municipalities, and bona fide veterans' organizations that voluntarily hold special community events commemorating the 40th anniversary of the end of the United States' involvement in the Vietnam War on March 25, 2013, and "Vietnam Veterans' Day."

Specifically, the bill directs the Department of Veterans' Affairs to adopt rules to:

- Solicit private donations to fund grants to counties, municipalities, and bona fide veterans' organizations that voluntarily hold commemorative "Vietnam Veterans' Day" activities; and
- Create a special volunteer advisory board, consisting of Vietnam veterans who are Florida residents, which will review and make recommendations as to the activities conducted to commemorate "Vietnam Veterans' Day."

Section 4 amends s. 320.08056, F.S., adding the "Vietnam Veterans" license plate to the list of approved specialty license plates available in Florida and establishes an annual use fee of \$25 to acquire such license plate.

Section 5 amends s. 320.08058, F.S., directing the DHSMV to develop a "Vietnam Veterans" license plate, in which the license plate annual use fees are to be deposited into the Florida Department of Veterans' Affairs' Operations and Maintenance Trust Fund. All such moneys are to be administered by the Florida Veterans' Foundation,¹¹ and must be used solely for the purpose of:

- Funding grants to counties, municipalities, and bona fide veterans' organizations for activities related to the initial observance of "Vietnam Veterans' Day" on March 25, 2013;
- Expenditures related to the annual observance of "Vietnam Veterans' Day" in years subsequent to 2013; and
- The continuing promotion and marketing of the "Vietnam Veterans" license plate.

According to the DHSMV, the "Vietnam Veterans" license plate sponsoring organization has not met the necessary application and fee requirements established by s. 320.08053, F.S., prior to May 2, 2008. That statute requires that an organization seeking to have a license plate must

¹⁰ Because March 29, 2013, falls on Good Friday, which is an existing legal holiday, this bill designates March 25, 2013, as the date which the 40th anniversary of the end of the United States' involvement in the Vietnam War is to be commemorated.

¹¹ The Florida Veterans' Foundation is the direct-support organization of the Florida Department of Veterans' Affairs created under s. 292.055, F.S.

follow an application process which goes through the DHSMV, with all information and fees submitted 90 days prior to the start of the Legislative session. The Legislature then approves a license plate by adding it to current law. This section as written circumvents the process established in current state statute as well as the associated moratorium on new license plates.

Section 6 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons choosing to purchase a “Vietnam Veterans” specialty license plate can do so for a charge of \$25 (plus \$5 processing fee) in addition to the normal fees associated with buying a license plate.

C. Government Sector Impact:

DHSMV would be responsible for developing and distributing the “Vietnam Veterans” specialty license plate. The cost of this effort is estimated to be approximately \$60,000. According to the DHSMV, the required \$60,000 application fee has not been paid which would help offset the development and distribution costs.

VI. Technical Deficiencies:

The bill states that March 29, 2013, is the 40th anniversary of the end of United States involvement in the Vietnam War. While this may be the date that most ground troops were supposed to be withdrawn under the Paris Peace Accords, the United States continued to be involved in the Vietnam War until May 7, 1975. March 29, 1973, does not appear in any official documents as the end of U.S. involvement or the end of the Vietnam War. As noted in the Present Situation section, the U.S. Congress has noted May 7, 1975, as the end of the conflict as it relates to U.S. veterans and a recent U.S. Senate Resolution noted March 30, 1973, as the day

troops were withdrawn. It might be more accurate to state that it is the anniversary of the withdrawal of U.S. combat ground troops from Vietnam, or otherwise to change the date.

The DHSMV notes that the bill does not have a timeline specified in which funds are to be deposited into the Operations and Maintenance Trust Fund of the Department of Veterans' Affairs. They also request that the effective date be changed to October 1, 2011 to allow time for programming modifications.¹²

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 Military Affairs, Space, and Domestic Security on March 23, 2011:

- Designates March 25, 2013, the 40th anniversary of the end of the United States' involvement in the Vietnam War, as a legal holiday.
- Provides for the recognition of "Vietnam Veterans' Day" to be held annually on March 29, commencing on March 29, 2014.

B. Amendments:

None.

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

¹² Department of Highway Safety and Motor Vehicles, *Senate Bill 1110 Agency Bill Analysis* (Feb. 25, 2011) (on file with the Senate Committee on Community Affairs).