

**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.)

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Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

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BILL: SPB 7076

INTRODUCER: For consideration by the Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Military and Veteran Support

DATE: March 30, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ryon</u>	<u>Ryon</u>	<u></u>	<u>Pre-meeting</u>

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**I. Summary:**

SPB 7076 makes various changes to current law related to military and veteran support. In part, the bill:

- Amends Florida’s grant programs for defense-dependent communities to clarify that an existing 30 percent match requirement applies only to the Defense Reinvestment Grant Program;
- Requires the Florida Department of Veterans’ Affairs to include a section on agricultural farming opportunities for veterans in the Florida Veterans’ Benefits Guide and to make the guide available to military installations in Florida;
- Expands the authorization of local governing bodies to assist honorably discharged veterans who have wartime service, to also include any veteran who has wartime service, regardless of discharge, any veteran who has an honorable discharge, and any veteran who has received a general discharge under honorable conditions;
- Revises the Department of Business and Professional Regulation’s general licensure fee waiver program to allow the waiver to apply to a veteran with a general discharge under honorable conditions; and
- Requires the Department of Highway Safety and Motor Vehicles and Department of Military Affairs to create a pilot program to provide on-site commercial driver license testing opportunities available to qualified members of the Florida National Guard.

**II. Present Situation:**

**Defense Grant Programs**

Section 288.980, F.S., establishes grant programs designed to aid defense-dependent communities throughout the state that are administered by Enterprise Florida, Inc., through the Department of Economic Opportunity (DEO). Among these programs are the Florida Defense Reinvestment Grant Program (DRG) and the Defense Infrastructure Grant Program (DIG).

The DRG program competitively funds projects proposed by defense-dependent communities to develop and implement strategies to help support the missions of a community's military installation or diversity the defense-dependent community's economy. DRG-funded activities can include studies, presentations, analyses, plans, marketing, modeling, and reasonable travel costs. For fiscal year 2014-2015, the Legislature appropriated \$850,000 to DEO to fund the DRG program. Twelve DRG projects were approved for fiscal year 2014-2015, totaling \$850,000.

The DIG program competitively funds local infrastructure projects deemed to have a positive impact on the military value of installations within the state. Authorized DIG projects include, but are not limited to, those relating to encroachment, transportation and access, utilities, communications, housing, environment, and security. For fiscal year 2014-2015, the Legislature appropriated \$1.6 million to DEO to fund the DIG program. Ten DIG projects were approved for fiscal year 2014-2015, totaling \$1.6 million.

Section 288.980, F.S., was significantly amended in 2012 to consolidate the seven defense grant programs that existed at that time into three comprehensive programs: the DIG, the DRG, and the Military Base Protection programs.<sup>1</sup> The 2012 revision expressly requires both DRG and DIG applicants to agree to match at least 30 percent of any grant awarded. However, this requirement conflicts with the current and historical DIG provision that *allows* the DEO to require a match for certain projects. This permissive match provision for the DIG program was present in the statute prior to the 2012 revision and matches have not been a requirement for past DIG projects. In administering the two programs, DEO and Enterprise Florida, Inc., require the 30 percent match for DRG projects only. According to Enterprise Florida, Inc., the 30 percent match requirement is appropriate for the DRG program, not the DIG program. It appears that the imposition of the mandatory match requirement for *both* programs may have been an oversight during the 2012 revision of s. 288.980, F.S.

### **Military Discharges**

Florida law defines a "veteran" as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs (VA) on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized, or during certain periods of wartime service.<sup>2</sup>

Federal law defines a "veteran" as a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable."<sup>3</sup>

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<sup>1</sup> Ch. 2012-98, Laws of Fla.

<sup>2</sup> s. 1.01(14), F.S.

<sup>3</sup> 38 U.S.C. § 101(2); 38 C.F.R. § 3.1(d).

### *Types of Discharges*

There are five types of discharges issued by the military services:<sup>4</sup>

- Honorable Discharge: The servicemember met the conduct and performance standards of the military and is eligible for most veteran benefits including VA education benefits (*i.e.*, GI Bill), military health benefits, military retirement, and military travel benefits.
- General Discharge under Honorable Conditions: The servicemember's service has been honest, faithful and satisfactory. However, this characterization of service is warranted when significant negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military conduct or performance of duty outweigh positive aspects of the record. This discharge means a member is eligible for most veteran benefits but NOT for VA education benefits.
- Other than Honorable Discharge: This discharge is warranted when the reason for separation is based upon a pattern of behavior that constitutes a significant departure from the conduct expected of servicemembers. Examples include abuse of authority, serious misconduct that endangers other members of the military, and use of deliberate force to seriously hurt another person. Generally, a servicemember that has this discharge is ineligible for all VA benefits.
- Bad Conduct Discharge: A punitive discharge that's imposed by court-martial (criminal trial conducted by the military). A servicemember is not entitled to any VA benefits.
- Dishonorable Discharge: Provided when a serious crime has been committed such as desertion, rape, or murder. This discharge is only given if a servicemember is convicted at a general court-martial and the servicemember is not entitled to any VA benefits.

Generally, in order to receive federal VA benefits, the veteran's character of discharge or service must be under other than dishonorable conditions (e.g., honorable, under honorable conditions, general). However, individuals receiving undesirable, bad conduct, and other types of dishonorable discharges may qualify for VA benefits depending on a determination made by VA.<sup>5</sup>

A discharge characterized by the military as under honorable conditions is binding on the VA and allows for the VA to provide benefits if other eligibility requirements are met. If a discharge was not characterized as under honorable conditions, benefits are not payable unless the VA determines the discharge was "under conditions other than dishonorable. Under federal law, certain situations resulting in a discharge under less than honorable conditions constitute a legal bar to the payment of benefits.<sup>6</sup>

A release or discharge for any of the following reasons constitutes a statutory bar to benefits, unless it is determined that the servicemember was insane at the time he/she committed the offense that resulted in the discharge:<sup>7</sup>

- Sentence of a general court-martial;
- Being a conscientious objector;

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<sup>4</sup> Congressional Research Service, "Who is a Veteran?" Basic Eligibility for Veterans' Benefits, January 23, 2014, at page 3.

<sup>5</sup> US Department of Veterans Affairs Veterans Benefits Administration, available at: [http://www.benefits.va.gov/benefits/character\\_of\\_discharge.asp](http://www.benefits.va.gov/benefits/character_of_discharge.asp)

<sup>6</sup> US Department of Veterans Affairs factsheet on claims for benefits involving other-than-honorable discharges, available at: [http://www.benefits.va.gov/BENEFITS/docs/COD\\_Factsheet.pdf](http://www.benefits.va.gov/BENEFITS/docs/COD_Factsheet.pdf)

<sup>7</sup> 38 U.S.C. § 5303.

- Desertion;
- Resignation by an officer for the good of the service;
- Absence without official leave (AWOL) for a continuous period of 180 days or more, without compelling circumstances to warrant such prolonged unauthorized absence (as determined by VA); or
- Requesting release from service as an alien during a period of hostilities.

### **Local Governing Bodies Authorized to Assist War Veterans**

Current law authorizes the board of county commissioners of each county and the governing body of each city, to aid and assist veterans of the U.S. Armed Forces in presenting claims for, and securing, the following benefits and privileges:

- Compensation;
- Hospitalization;
- Education;
- Loans;
- Career training, and
- Other state or federal benefits or privileges to which they may become entitled.<sup>8</sup>

The law applies to honorably discharged veterans who have who have wartime service and their dependents.

### **Florida Department of Business and Professional Regulation License Fee Waiver**

The Florida Department of Business and Professional Regulation (DBPR) was established in 1993 with the merger of the Department of Business Regulation and the Department of Professional Regulation.<sup>9</sup> DBPR is responsible for licensing and regulating various businesses and professionals in the state, including but not limited to, cosmetologists, veterinarians, real estate agents and pari-mutuel wagering facilities.<sup>10</sup> Section 455.213, F.S., provides the general provisions for issuance of professional licensure by the DBPR. The current statute waives the initial licensing fee, the initial application fee and initial unlicensed activity fee for honorably discharged veterans of the U.S. Armed Forces and their spouses within 60 months prior to applying for licensure.

### **Agricultural Careers for Veterans**

Periodically, Congress establishes agricultural and food policy in a multi-year, omnibus farm bill. The Federal Agricultural Act of 2014<sup>11</sup> (Farm Bill), provides opportunities to veterans to pursue agricultural farming jobs. Among other things, the Farm Bill creates a definition for “veteran farmer or rancher” to mean a farmer or rancher who has served in the Armed Forces and who has not operated a farm or ranch, or has operated a farm or ranch for not more than 10

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<sup>8</sup> s. 292.10, F.S

<sup>9</sup> Chapter 93-220, L.O.F.

<sup>10</sup> DBPR website, available at: <http://www.myfloridalicense.com/dbpr/index.html>

<sup>11</sup> Pub. L. No. 113-79, H.R. 2642, 113th Cong

years.<sup>12</sup> The veteran farmer or rancher classification allows veterans to receive additional assistance for agricultural programs, including the following:<sup>13</sup>

- **Conservation Reserve Program (CRP) Transition Incentive Program:** This program allows retiring farmers with land in the CRP to receive additional payments for leasing or selling the land to a beginning farmer or rancher, a socially disadvantaged farmer or rancher, or a veteran farmer or rancher. The purpose is to make land available to new farmers while ensuring that land coming out of the CRP is farmed or grazed in a sustainable manner.
- **Conservation Programming Preference for Veteran Farmers:** The USDA is required to set aside a portion of funding for the Environmental Quality Incentives Program (EQIP) and a portion of the acres available for the Conservation Stewardship Program (CSP) for beginning and socially disadvantaged farmers and ranchers. The amount is five percent for beginning farmers and ranchers and five percent for socially disadvantaged farmers and ranchers. Under the Farm Bill, a preference must be given to veteran farmers and ranchers that fall within one of the set-aside categories.
- **Value-Added Development Grants:** Under this program, private farmers may directly receive grants for their business to assist them in developing business plans and strategies to market value-added products. The USDA must also give a priority to veteran farmers and ranchers.

There are also numerous outreach and advocacy programs under the Farm Bill, including the following:<sup>14</sup>

- **Beginning Farmer and Rancher Development Grants:** This program administers grants to organizations that provide training, education, outreach, and technical assistance to beginner farmers and ranchers. Under the Farm Bill, assistance for veteran farmers is a priority and five percent of funding is set aside for programs serving veterans.
- **Outreach and Assistance Program for Socially Disadvantaged Farmers and Ranchers:** This program allows the USDA to provide additional technical assistance to veterans focused on enabling farm ownership and operation as well as outreach to encourage participation in the USDA programs.

## **Commercial Drivers' Licenses**

The Federal Motor Carrier Safety Administration (FMCSA), established within the U.S. Department of Transportation, is the federal agency responsible for establishing minimum federal standards that states must meet regarding the issuance of commercial driver licenses (CDL). Administration of the actual CDL program and issuance of the license itself is the exclusive function of the states. To obtain a CDL in Florida an applicant must pass certain knowledge, endorsement, and skills tests depending on the type of CDL sought.

In 2011, the FMCSA formalized a provision that gives states the authority to substitute two years of commercial motor vehicle safe driving experience in the military for the skills test required upon application for a CDL.<sup>15</sup> In Florida, the CDL skills test waiver is available to military servicemembers (including National Guard members and reservists) and those who are within 90

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<sup>12</sup> U.S. Department of Agriculture website on "Natural Resources Conservation Service," available at <http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/programs/farmbill/?cid=stelprdb1256753>

<sup>13</sup> Farmer Veteran Coalition, available at <http://www.farmvetco.org/archives/2872>,

<sup>14</sup> *Id.*

<sup>15</sup> Substitute for Driving Skills Tests for Drivers with Military CMV Experience, 49 CFR s. 383.77 (2011).

days of separation from the military. To qualify for the military skills test waiver, the applicant must.<sup>16</sup>

- Pass all required written knowledge exams and endorsements required for the class of CDL sought;
- Certify that for at least 2 years immediately preceding the application, the applicant operated a motor vehicle representative of the class of CDL sought; and
- Present the Department of Highway Safety and Motor Vehicles Certification for Waiver of Skill Test for Military Personnel form, filled out in its entirety, and signed by the applicant's commanding officer or designee.<sup>17</sup>

The skills test waiver process must be completed, and the CDL issued, within 120 days of separation from the military.

### III. Effect of Proposed Changes:

**Section 1** amends s. 288.980, F.S., to remove the 30 percent match requirement for grants awarded under the Defense Infrastructure Grant Program. The bill clarifies that the 30 percent match requirement applies only to the Defense Reinvestment Grant Program.

**Section 2** amends s. 292.10, F.S., to expand the authorization of local governing bodies to assist honorably discharged veterans who have wartime service, to additionally include any veteran who has wartime service, regardless of discharge, any veteran who has an honorable discharge, and any veteran who received a general discharge under honorable conditions.

**Section 3** amends s. 455.213, F.S., to revise the DBPR general licensing fee waiver requirement for an honorably discharged veteran, to also require that the waiver to apply to a veteran with a general discharge under honorable conditions.

**Section 4** requires the Florida Department of Veterans' Affairs (FDVA), through the direct-support organization established under s. 292.055, F.S., (The Florida Veterans Foundation), and in consultation with the Department of Agriculture and Consumer Services, to include a section in the FDVA Florida Veterans' Benefit Guide (Benefits Guide) on agricultural farming opportunities in the state for veterans. The Benefits Guide must include information on federal, state, and local agricultural farming programs, incentives, assistance, and grants available to veterans.

Additionally, the FDVA must make the Benefits Guide available at all military installations in Florida and provide a concise description of the Benefits Guide's agricultural farming section on the FDVA website including a link to the new section.

**Section 5** requires the Department of Highway Safety and Motor Vehicles and the Department of Military Affairs to create a pilot program by June 30, 2016, to make commercial driving license testing opportunities available to qualified members of the Florida National Guard. The testing

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<sup>16</sup> Rule 15A-7.018, F.A.C., Military Qualifications for Waiver of Commercial Driver License Skills Test.

<sup>17</sup> DHSMV Certification for Waiver of Skill Test for Military Personnel form. Available at: <http://www.flhsmv.gov/html/HSMV71054.pdf>

must be held at a Florida National Guard Armory, an Armed Forces Reserve Center, or Camp Blanding Joint Training Center. The pilot program must be accomplished using existing funds appropriated to each department.

**Section 6** provides an effective date of July 1, 2015.

#### **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:

**Section 2:** A broader group of veterans and their families may be eligible for assistance provided by local governing bodies under the bill.

**Section 3:** Expanding eligibility for the DBPR general licensing fee waiver may encourage additional applicants to participate in the fee waiver program.

**Section 4:** Providing information on veteran-specific farming opportunities in the Florida Veterans' Benefits Guide may encourage veterans to seek career opportunities in the agricultural farming industry.

**Section 5:** A successful pilot program providing commercial driver license testing opportunities for members of the Florida National Guard may lead to recruiting and training of new commercial motor vehicle drivers.

C. Government Sector Impact:

**Section 3:** In administering the licensure fee waiver program for honorably discharged veterans, it is the DBPR's current practice to allow veterans with a general discharge under honorable conditions to participate. However, the extent to which veterans with a discharge under this category know about DBPR's current practice is unknown. Section 3 merely codifies DBPR's current practice, and therefore, has no fiscal impact.

**Section 4:** The Florida Veterans' Benefit Guide (Benefits Guide) is a yearly publication printed by the Florida Veterans Foundation (Foundation), the FDVA's direct-support organization. The cost to print and distribute the Benefits Guide is paid through donations collected by the Foundation. Section 4 requires that the Benefits Guide contain information on agricultural farming opportunities for veterans. This information will be incorporated into a currently existing Benefits Guide. The Foundation will incur an expense should it decide to print updated Benefits Guides that include the new section on agricultural farming opportunities for veterans.

The requirement for the FDVA to make the Benefits Guide available to all military installations in Florida can be accomplished with minimal expense via e-mail.

**Section 5:** The bill requires the Department of Highway Safety Motor Vehicles (DHSMV) to partner with the Department of Military Affairs to jointly create a pilot program to provide on-site commercial driver license testing opportunities to Florida National Guard members. The pilot program may be incorporated into the DHSMV's existing 'Florida Licensing on Wheels' (FLOW) program for a minimal fiscal impact. The FLOW program provides a convenient method to renew a driver license, obtain a replacement driver license, change a name or address on a driver license, etc. DHSMV has five FLOW mobiles that provide services out a large bus and six mini-FLOWS that can be set up at tables at smaller venues and indoor events.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 288.980, 292.10, and 455.213.

This bill creates two undesignated sections of Florida law.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

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<sup>18</sup> DHSMV Florida Licensing on Wheels (FLOW) program. Available at: <http://www.flhsmv.gov/offices/FLOW.htm>.



B. Amendments:

None.

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

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