

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7105 PCB VMAS 16-01 Credit for Relevant Military Service

SPONSOR(S): Veteran & Military Affairs Subcommittee, Smith

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Veteran & Military Affairs Subcommittee	12 Y, 0 N	Renner	Thompson
1) Government Operations Appropriations Subcommittee	11 Y, 0 N	White	Topp

SUMMARY ANALYSIS

The bill requires the Department of Business and Professional Regulation (DBPR), the Department of Health (DOH), and the Department of Agriculture and Consumer Services (DACS) to extend credit for relevant military service across a broad range of professions and occupational fields. The bill also requires the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Military Affairs (DMA) to provide CDL testing opportunities to Florida National Guard members at certain military facilities in Florida. In part, the bill:

- Requires DBPR to extend credit towards the requirements for construction and electrical contracting licensure for experience, training, or education received and completed during service in the United States Armed Forces, if the experience, training or education is substantially similar to the experience, training, or education required for licensure. DBPR will submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor with specific data on, among other things, how many veterans have applied, been denied, been accepted, and recommendations on ways the agencies could meet the needs of the veterans.
- Provides alternative eligibility criteria for a military servicemember seeking licensure as a health care practitioner through DOH in this state and extends the alternative eligibility criteria, and other current licensure eligibility criteria for military applicants, to the spouses of active duty military personnel who apply for a license as a health care practitioner.
- Removes the law that allows military spouses to obtain temporary licensure as a health care practitioner to conform to the new full-licensure eligibility provisions in the bill for active duty military spouses.
- Allows military health care practitioners who are practicing under a military platform, which is a training agreement with a nonmilitary health care provider, to be issued a temporary certificate to practice in this state.
- Exempts out-of-state or military-trained EMTs or paramedics from a certification examination requirement if the EMT or paramedic is already nationally certified or registered as recognized by DOH.
- Requires DACS to extend credit towards the requirements for licensure for military training or education received and completed during service in the United States Armed Forces, if the training or education is substantially similar to the training or education required for Private Security, Private Investigative and Recovery Services licenses, and requires DACS to submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor with specific statistics on, among other things, how many veterans have applied, been denied, and been accepted, and recommendations on ways the agencies could meet the needs of the veterans.
- Requires DHSMV and DMA to create a pilot program to make commercial driver license testing opportunities available to qualified members of the Florida National Guard. The testing must be held at a Florida National Guard Armory, Armed Forces Reserve Center, or Camp Blanding Joint Training Center.

The fiscal impact to the state is insignificant. There is no fiscal impact anticipated on local governments. Provisions of the bill may have a positive fiscal impact to veterans and their families.

The effective date of the bill is July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7105a.GOAS

DATE: 2/16/2016

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Veteran Statistics

Currently, there are 21.8 million veterans in the United States, of which, over 1.6 million reside in Florida.¹ This makes Florida the state with the third largest veteran population, behind only California and Texas.² Approximately 299,000 of Florida's veterans are service-disabled.³

Florida's overall unemployment rate was 5 percent at the end of December 2015.⁴ In 2014, the unemployment rate among Florida veterans was 5 percent compared to 5.3 percent nationally.⁵ The unemployment rate among Florida Post-9/11 era veterans averaged 4.8 percent compared to 7.2 percent nationally.⁶

Credentialing

Veterans enter the civilian workforce trained in hundreds of occupations with relevance to the civilian workforce. However, receiving the credential (license or certification) in many of those occupations can require completing training and education standards despite already having highly relevant skills and experience. Such requirements impose additional costs on veterans and taxpayers, who pay both for the initial military training and for re-training outside of the military through veterans' education benefits.⁷

The federal government has undertaken several initiatives to streamline professional licensing and credentialing for veterans. These initiatives include efforts to provide civilian credentials and identify equivalencies between military and civilian occupations. However, ultimate authority for regulating entry into most occupations lies with state governments.⁸ In particular, it has been found that state licensing boards have the responsibility for approving accelerated pathways leading to civilian certification or licensure.⁹

Enlistment Timeframes

¹ U.S. Census Bureau, *A Snapshot of Our Nation's Veterans*, available at: <http://www.census.gov/library/infographics/veterans.html> (last viewed January 20, 2016).

² Florida Department of Veterans' Affairs, *Fast Facts*, available at: http://floridavets.org/?page_id=50 (last viewed January 20, 2016).

³ U.S. Department of Veterans Affairs, Veterans Benefits Administration, Annual Benefits Report, Fiscal Year 2014, page 22 of 80, available at: <http://www.benefits.va.gov/REPORTS/abr/ABR-IntroAppendix-FY13-09262014.pdf> (Last visited January 18, 2016).

⁴ U.S. Department of Labor, Bureau of Labor Statistics, released January 26, 2016.

⁵ United States Congress Joint Economic Committee, *Economic Snapshot: Florida* (Oct. 2015), available at: http://www.jec.senate.gov/public/_cache/files/2cb3bde9-27db-4584-86fc-f2ce46e4bb2e/florida.pdf (last visited January 20, 2016).

⁶ Id.

⁷ National Governor's Association, Testimony – Occupational Licenses and Credentials for Veterans, available at: <http://www.nga.org/cms/home/federal-relations/nga-testimony/hsp-testimony/col2-content/main-content-list/testimony--occupational-licenses.html> (last visited January 28, 2016).

⁸ U.S. Department of Labor Employment and Training Administration Office of Policy Development and Research and Veterans Employment Training Service, Veterans' Licensing and Certification Demonstration Interim Report, March 2015, available at: https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2015-03.pdf (last visited January 28, 2016).

⁹ National Governor's Association, Testimony – Occupational Licenses and Credentials for Veterans, available at: <http://www.nga.org/cms/home/federal-relations/nga-testimony/hsp-testimony/col2-content/main-content-list/testimony--occupational-licenses.html> (last visited January 28, 2016).

According to DMA, the average length of a military enlistment contract is four to eight years. Each military branch offers a wide array of enlistment contract terms and options. A standard contract requires four years of active duty service and four years of inactive reserve service. This includes work within the particular military occupational specialty (MOS).¹⁰

DBPR

Present Situation

Construction and Electrical Contractors

DBPR is the agency charged with licensing and regulating various businesses and professions in the state, including, but not limited to, construction and electrical contractors. Both the Construction Industry Licensing Board¹¹ (CILB) and the Electrical Contractors' Licensing Board¹² (ECLB) are the regulatory bodies mandated with implementing parts I and II of ch. 489, F.S., respectively.

DBPR requires that all construction and electrical industry contractors be licensed.¹³ Licensure may be issued by either registration or certification. DBPR must issue a certification or registration to each person qualified by the board and upon receipt of the original license fee.¹⁴ Certified licenses are statewide and allow the contractor to work anywhere in Florida. Registered licenses are limited to certain local jurisdictions and only allow a contractor to work in the cities or counties where the contractor holds a certificate of competency.¹⁵ More specifically, licensure by registration is available when the applicant has taken and passed a local competency examination, which permits the licensee to practice within that specified locale,¹⁶ and licensure by certification is available when the applicant has taken and passed a state competency exam,¹⁷ which permits the certificateholder to engage in contracting in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction.¹⁸

In order to be a certified contractor in Florida, a person must:¹⁹

- Be at least 18 years of age;
- Be of good moral character;
- Pass the certification examination, achieving a passing grade as established by board rule;
- Meet the educational/experience requirements;
- Pay all applicable fees;
- Obtain workers' compensation coverage; and
- Demonstrate financial responsibility.

Section 489.111(2)(c), F.S., provides the experience and education requirements for all construction contractor applicants, without exception for military veterans. These requirements include four years of experience in the category applied for, with one year as a supervisor. Applicants may apply up to three

¹⁰ Information regarding military enlistment contracts is can be found at the FindLaw website, available at:

<http://military.findlaw.com/administrative-issues-benefits/what-is-a-military-enlistment-contract.html> (last visited January 28, 2016).

¹¹ The CILB oversees the following license categories: air conditioning, building, internal pollutant storage tank lining applicator, mechanical, plumbing, pollutant storage systems, pool/spa, precision tank tester, residential, roofing, sheet metal, solar, specialty, underground utility and excavation.

¹² The ECLB oversees the following license categories: electrical contractor, alarm system contractor I and II, specialty and electrical contractor.

¹³ s. 489.115(1), F.S.

¹⁴ s. 489.115(2)(a), F.S.

¹⁵ Dep't of Business and Professional Regulation, Construction Industry Licensing Board, *Definition of Occupation and Class Codes*, available at: <http://www.myfloridalicense.com/DBPR/pro/cilb/codes.html>, (last visited January 26, 2016).

¹⁶ DBPR website on the Construction Industry Licensing Board, available at <http://www.myfloridalicense.com/dbpr/pro/cilb/> (last visited January 8, 2016).

¹⁷ See s. 489.111, F.S., on exam requirements.

¹⁸ s. 489.115(2)(b), F.S.

¹⁹ s. 489.511, F.S.

years of college credit toward the experience requirements. The CILB reviews applicant experience when necessary to determine if the experience is within the category applied for.

Section 489.511(1)(b), F.S., provides the experience and education eligibility requirements for all electrical or alarm system contractor applicants, one of which requires at least four years of experience as a supervisor or contractor in the trade for which he or she is making application.

Section 489.511(1)(b)3.c., F.S., provides that an applicant for an electrical or alarm system contractor license may use technical experience in electrical or alarm system work with the military or a governmental entity to meet the minimum six year experience requirement.

Section 489.511(1)(b)3.e., F.S., provides that technical education may be used in conjunction with experience to meet the six year experience requirements, and technical training received in the military is acceptable under this provision. The ECLB reviews all applications to determine if the required training and experience has been met.

Additionally, both the CILB and the ECLB provide reciprocity if the applicant has a license from another state and the qualifications are substantially similar to Florida's requirements.²⁰

Veteran and Spouse Contractors

Section 455.213, F.S., requires DBPR to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for an honorably discharged military veteran, or his or her spouse at the time of discharge, if he or she applies for a license within 60 months (five years) after discharge.

Section 455.02, F.S., provides that any member of the military on active duty in the military, who at the time he or she became active was in good standing with any DBPR administrative board,²¹ he or she will be kept in good standing, without registering, paying fees or dues, or performing any act required for continued licensure, as long as the service member remains on active duty and does not engage in his or her profession in the private sector for profit.

Proposed Changes

The bill requires DBPR to provide a method by which honorably discharged veterans may apply for licensure. The method must include a veteran specific application and provide the following:

- Extension of credit to the fullest extent possible toward the requirements for licensure for military experience, training, or education received and completed during service in the U.S. Armed Forces if the experience, training, or education is substantially similar to the experience, training, or education required for licensure.
- For a Construction Contracting License: Up to three years of active duty service in the U.S. Armed Forces, regardless of duty or training, must be accepted to meet the four year experience requirement. A minimum of one additional year of active experience as a foreman in the trade, either civilian or military, is required to fulfill the experience requirement.
- For Electrical or Alarm System Contracting Licenses: At least four years of experience as a supervisor or contractor in the military equivalent to the trade for which he or she is making application must be accepted to meet the four year experience requirement. A minimum of one additional year of active experience as a foreman in the trade, either civilian or military, is required to fulfill the experience requirement.

Additionally, beginning October 1, 2017, and annually thereafter, in conjunction with the boards, DBPR is required to prepare and submit a report titled Construction and Electrical Contracting Veteran Applicant Statistics to the President of the Senate, Speaker of the House of Representatives, and Governor. The report must include the:

²⁰ ss. 489.115(3) and 489.511(5), F.S.

²¹ See s. 20.165(4)(a), F.S., for a complete list of all boards and programs established within the Division of Professions.

- Number of applicants who identified themselves as veterans;
- Number of veterans whose applications for a license were approved, denied and reason for denial;
- Data on the application processing times for veterans; and
- Recommendations on ways to improve DBPR's ability to meet the needs of veterans which would effectively address the challenges that veterans face when separating from military service and seeking a license for a profession or occupation regulated under parts I and II of ch. 489, F.S.

Lastly, the bill amends s. 489.511, F.S., to specify that anyone wishing to be an electrical contractor must have at least six years of technical education or training in addition to the technical experience in current law in electrical or alarm system work with the U.S. Armed Forces or a governmental entity.

DOH

Present Situation

Health Care Practitioner Licensure

DOH is responsible for the regulation of health care practitioners and health care facilities in Florida for the preservation of the health, safety, and welfare of the public.²² The Division of Medical Quality Assurance (MQA) within DOH has general regulatory authority over health care practitioners.²³ MQA works in conjunction with 22 boards²⁴ and six councils to license and regulate more than 40 health care professions.²⁵ Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for MQA.

Military Health Care Practitioners

An individual who serves or has served as a health care practitioner in the U.S. Armed Forces, U.S. Reserve Forces, or the National Guard on active duty or has served on active duty with the U.S. Armed Forces as a health care practitioner in the U.S. Public Health Service is eligible for licensure in Florida.²⁶ DOH is required to waive the application fee, licensure fee, and unlicensed activity fee for such applicants. The applicant will be issued a license to practice in Florida if the applicant submits a completed application and:

- Receives an honorable discharge within the six months before or after submission of the application;
- Holds an active, unencumbered license issued by another state, the District of Columbia, or a U.S. territory or possession with no disciplinary action taken against it in the five years preceding the date of application;
- Attests that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the U.S. Department of Defense for a reason related to the practice of the profession for which he or she is applying;
- Has actively practiced the profession for which he or she is applying for the three years preceding the date of application; and

²² s. 20.43(1)(g), F.S.

²³ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

²⁴ See s. 20.165(4)(a), F.S., for a complete list of all boards and programs established within the Division of Professions.

²⁵ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2014-2015*, 3, available at <http://mqawebteam.com/annualreports/1415/#6> (last visited January 19, 2016).

²⁶ s. 456.024, F.S.

- Submits to a background screening, if required for the profession for which he or she is applying, and does not have any disqualifying offenses.²⁷

DOH refers to this program as the Veterans Application for Licensure Online Response System (VALOR) and it additionally provides expedited licensing for honorably discharged veterans with an active license in another state.²⁸ To qualify for the VALOR program, a veteran must apply for a license six months before or after his or her honorable discharge from the U.S. Armed Forces.²⁹

The VALOR licensing provisions do not apply to an individual who is serving or has served as a health care practitioner in the military for which state licensure is not required.

Veteran and Spouse Health Care Practitioners

Section 456.013, F.S., requires DOH to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran or his or her spouse at the time of discharge, if he or she applies to the department for an initial license within 60 months (five years) after the veteran is honorably discharged from any branch of the United States Armed Forces. The applicant must apply for the fee waiver using a form prescribed by the department and must submit supporting documentation as required by the department.

Section 456.024, F.S., provides that any member of the military on active duty in the military, who at the time he or she became active was in good standing with any DOH administrative board, will be kept in good standing without registering, paying fees or dues, or performing any act required for continued licensure, as long as the service member remains on active duty and does not engage in his or her profession in the private sector for profit.

Section 456.024, F.S., also provides temporary license privileges for spouses of active duty members of the Armed Forces.³⁰ DOH is authorized to issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States if the applicant submits a completed application, and the following:

- Application fee;
- Proof of his or her marriage to an active duty military member;
- Proof of a valid professional license in another state, the District of Columbia, any U.S. possession or territory, or any foreign jurisdiction;
- Proof of active duty military orders that the applicant and his or her spouse are both assigned to duty in Florida; and
- A complete set of the applicant's fingerprints to be submitted to the Department of Law Enforcement and the Federal Bureau of Investigation for state and federal criminal background check, at the applicant's expense.

Section 456.024, F.S., requires an applicant who is issued a temporary professional license to practice as a dentist pursuant to this section to practice under the indirect supervision³¹ of a dentist licensed pursuant to chapter 466, F.S.

Emergency Medical Technicians and Paramedics

DOH, Division of Emergency Operations regulates emergency medical technicians (EMTs) and paramedics. "Emergency Medical Technician" is defined in s. 401.23, F.S., as a person who is certified

²⁷ s. 456.024(3)(a), F.S.

²⁸ See Department of Health, *Veterans*, available at <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html> (last visited Jan. 18, 2016).

²⁹ *Id.*

³⁰ *Id.*

³¹ s. 466.003(9), F.S., defines "Indirect supervision" to mean supervision whereby a dentist authorizes the procedure and a dentist is on the premises while the procedures are performed.

by DOH to perform basic life support.³² “Paramedic” means a person who is certified by DOH to perform basic and advanced life support.³³

The National Emergency Medical Service (EMS) Education Standards define the minimal entry-level educational competencies, clinical behaviors, and judgments that must be met by Emergency Medical Service personnel to meet national practice guidelines.³⁴ The National EMS Education Standards assume there is a progression in practice from the entry-level Emergency Medical Responder level to the Paramedic level. That is, licensed personnel at each level are responsible for all knowledge, judgments, and behaviors at their level and at all levels preceding their level. According to these standards, there are four licensure levels of EMS personnel: Emergency Medical Responder; Emergency Medical Technician; Advanced Emergency Medical Technician; and Paramedic. For example, a paramedic is responsible for knowing and doing everything identified in that specific area, as well as knowing and doing all tasks in the three preceding levels.³⁵

Under Florida law, an applicant for certification or recertification as an EMT or paramedic must:

- Have completed an appropriate training program as follows:
 - For an EMT, an EMT training program approved by DOH as equivalent to the most recent EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation; or
 - For a paramedic, a paramedic training program approved by DOH as equivalent to the most recent EMT-Paramedic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation;
- Certify under oath that he or she is not addicted to alcohol or any controlled substance;
- Certify under oath that he or she is free from any physical or mental defect or disease that might impair the applicant’s ability to perform his or her duties;
- Within two years after program completion have passed an examination developed or required by DOH;
- For an EMT, hold a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent as defined by DOH rule;
- For a paramedic, hold a certificate of successful course completion in advanced cardiac life support from the American Heart Association or its equivalent as defined by DOH rule;
- Submit the certification fee and the nonrefundable examination fee prescribed in s. 401.34, F.S., which examination fee will be required for each examination administered to an applicant; and
- Submit a completed application to DOH, which application documents compliance with the certification requirements.³⁶

Proposed Changes

Military and Military Spouse Health Care Practitioners

The bill authorizes DOH to waive fees and issue a health care practitioner license to an active duty member of the military who applies six months before or after an honorable discharge in a profession

³² “Basic life support” means the assessment or treatment by a person qualified under this part through the use of techniques described in the EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation and approved by the DOH. The term includes the administration of oxygen and other techniques that have been approved and are performed under conditions specified by rules of the DOH.

³³ “Advanced life support” means assessment or treatment by a person qualified under this part through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards, pursuant to rules of the DOH.

³⁴ National Highway Traffic Safety Administration, Emergency Medical Services, Educational Standards and NSC: National Emergency Medical Services Education Standards, available at: <http://www.ems.gov/EducationStandards.htm> (last visited Jan. 19, 2016).

³⁵ *Id.*

³⁶ Section 401.27, F.S.

for which licensure is not required in another state.³⁷ However, the applicant must provide evidence of military training or experience substantially equal to the requirements for licensure in Florida and proof of a passing score on the appropriate examination of a national or regional standards organization, if required for licensure in Florida.

The bill also authorizes DOH to issue a health care practitioner license to the spouse of an active duty military member in a profession that may not require a license in another state and allows the applicant to apply in the same manner as those military members applying for a health care practitioner license within six months of an honorable discharge, meaning the military spouse applicant will not be subject to application fees and will have a truncated application process. As is required for military applicants, the military spouse applicant who is not licensed in another state must provide evidence of training or experience equivalent to the requirements for licensure in Florida and provide proof of a passing score on the appropriate exam of a national or regional standards organization, if required for licensure in Florida. The bill repeals the law pertaining to temporary licensure of military spouses to conform to the new full-licensure provisions of the bill for military spouses.

The repealed provisions include the elimination of the requirement that a military spouse who has been issued a temporary dental license practice only under the supervision of a Florida dentist.

The bill allows military health care practitioners who are practicing under a military platform, which is a training agreement with a nonmilitary health care provider, to be issued a temporary certificate from DOH, which authorizes the practitioner to practice in this state for up to six months. This would allow military health care practitioners to develop and maintain technical proficiency in their profession.

The bill includes certain safeguards to ensure military health care practitioners applying for a temporary certificate will competently and safely practice in nonmilitary health care settings. An applicant who has been convicted of a felony or misdemeanor related to the practice of a health care profession, who has had a health care provider license revoked or suspended in another jurisdiction, who has failed to obtain a passing score on the Florida examination required to receive a license for his or her profession, or who is under investigation in another jurisdiction for an act that constitutes a violation under a Florida practice act is ineligible to apply for a temporary certificate. Upon application, the bill requires the military health care practitioner seeking a temporary certificate to:

- Submit proof that he or she will practice pursuant to a military platform;
- Submit a complete application and a nonrefundable application fee not to exceed \$50;
- Hold a valid and unencumbered license to practice as a health care professional in another state, the District of Columbia, or a possession or territory of the United States, or is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required for practice in the military and who provides evidence of training and experience substantially equivalent to the requirements for licensure in this state for that profession;
- Attest that he or she is not, at the time of application, the subject of a disciplinary proceeding in another jurisdiction or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying;
- Be determined to be competent in the profession for which they are applying for a temporary certificate; and
- Submit a set of fingerprints for a background screening, if required in this state, for a profession for which he or she is applying for a temporary certificate.

Emergency Medical Technicians and Paramedics

³⁷According to the DOH, professions not licensed in all states and jurisdictions, but are licensed in Florida, include: respiratory therapists and assistants, clinical laboratory personnel, medical physicists, opticians, athletic trainers, electrologists, nursing home administrators, midwives, orthotists and assistants, prosthetists and assistants, pedorthotists and assistants, orthotic fitters and assistants, certified chiropractic physician assistants, and pharmacy technicians. *Supra* note 34 at 3.

The bill exempts out-of-state or military-trained EMTs or paramedics from the certification examination required by DOH if the EMT or paramedic provides proof of current nationally recognized emergency medical technician or paramedic certification or registration that is recognized by DOH.

DACS

Present Situation

Private Security, Private Investigative and Recovery Services

The Division of Licensing within DACS issues licenses to persons providing private security, private investigative and recovery services to the public pursuant to ch. 493, F.S. In 2015, the division regulated 26 different license types, including, six private investigator, seven private security officer, seven recovery agent, and six firearm; for a total of approximately 1.6 million private security, private investigative, and recovery services licenses in the state of Florida.³⁸

Private Investigators are defined as any person who, for a fee, provides or performs private investigation,³⁹ which means investigation for the purpose of obtaining information with reference to certain activities which are set forth in statute.⁴⁰ A private security officer is defined as any individual who, for consideration:

- Advertises as providing or performs bodyguard services or otherwise guards persons or property;
- Attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or
- Attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return thereof.⁴¹

The definition of a private security officer also includes armored car personnel and those personnel engaged in the transportation of prisoners.⁴² A recovery agent is any individual who, for consideration, advertises as providing or performs authorized⁴³ repossessions,⁴⁴ which are defined to mean the recovery of certain personal property as set forth in statute.⁴⁵

General license requirements for all three professions require each applicant to:⁴⁶

³⁸ Florida DACS, Division of Licensing, *Number of Licensees by Type As of December 31, 2015*, available at: http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf, (last visited January 26, 2016).

³⁹ s. 493.6101(17), F.S., provides the activities that provide grounds for an investigation include, crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation; the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons; the credibility of witnesses or other persons; the whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates; the location or recovery of lost or stolen property; the causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property; or the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation therefor.

⁴⁰ s. 493.6101(17), F.S.

⁴¹ s. 493.6101(19), F.S.

⁴² *Id.*

⁴³ s. 493.6101(2), requires repossessions to be performed by an individual who is authorized by the legal owner, lienholder, or lessor to recover, or to collect money payment in lieu of recovery of, that which has been sold or leased under a security agreement that contains a repossession clause.

⁴⁴ s. 493.6101(21), F.S.

⁴⁵ s. 493.6101(22), F.S., restricts "repossession" to the recovery of the following items: a motor vehicle as defined under s. 320.01(1), F.S., a mobile home as defined in s. 320.01(2), F.S., a motorboat as defined under s. 327.02, F.S., an aircraft as defined in s. 330.27(1), F.S., a personal watercraft as defined in s. 327.02, F.S., an all-terrain vehicle as defined in s. 316.2074, F.S., farm equipment as defined under s. 686.402, F.S., or industrial equipment.

⁴⁶ s. 493.6106, F.S.(1), F.S.

- Be at least 18 years old.
- Be of good moral character.
- Not have been adjudicated, involuntarily placed in a treatment facility for the mentally ill unless his or her capacity and competency has been judicially restored, and not been diagnosed as having an incapacitating mental illness, unless he or she is not currently impaired and has successfully completed a rehabilitation course.
- Not have been committed for controlled substance abuse or been found guilty of a crime relating to controlled substances in any other state within a three-year period immediately preceding the date the application was filed, unless the individual establishes that she or he is not currently abusing and has successfully completed a rehabilitation course.
- Be a U.S. citizen or permanent legal resident alien. For applicants who are not U.S. citizens, they must provide additional documentation and proof that they are a permanent and legal resident alien of the U.S.

Those applicants must provide to DACS, among other things, an application with the following:

- Name;
- Date of birth;
- Social Security number;⁴⁷
- Place of Birth;
- A statement of all criminal convictions, including dispositions, and adjudications withheld;
- A statement of whether he or she has been adjudicated incapacitated or committed to a mental institution;
- A statement regarding any history of illegal drug use or alcohol abuse;
- One full-face, color photograph; and
- A full set of prints on the division's fingerprint card or submitted electronically via a personal inquiry waiver and the appropriate fees.⁴⁸

In addition to the general licensure requirements above, depending on what class an applicant applies for, the applicant may have to prove he or she successfully completed certain training or education requirements and/or have relevant work experience.⁴⁹

DACS currently requires returning veterans and their spouses to pay application fees, fingerprint fees, and all other applicable fees when applying for licenses under ch. 493, F.S., as private investigators, security officers or recovery agents.

In addition, current law does not specifically require DACS or its boards to extend credit towards licensure for relevant training, experience, or education gained in the military.

Proposed Changes

The bill requires DACS to provide a method by which honorably discharged veterans may apply for licensure. The method must include the following:

- Extension of credit towards the requirements for licensure for military training or education received and completed during service in the Armed Forces, if the training or education is substantially similar to the training or education required for licensure.

⁴⁷ DACS will not disclose an applicant's social security number without consent of the applicant to anyone outside DACS unless required by law. See Chapter 119, F. S., 15 U.S.C., ss. 1681 et seq., 15 U.S.C. ss. 6801 et seq., 18 U.S.C. ss. 2721 et seq., Pub. L. No. 107-56 (USA Patriot Act of 2001), and Presidential Executive Order 13224.

⁴⁸ See also Fla. Dept. of Agriculture and Consumer Affairs, *Private Investigator Handbook*, p.11, available at: https://licensing.freshfromflorida.com/forms/P-00093_PrivateInvestigatorHandbook.pdf; *Security Officer Handbook*, p. 16, available at: https://licensing.freshfromflorida.com/forms/P-00092_SecurityOfficerHandbook.pdf; *Recovery Agent Handbook*, at p. 9, https://licensing.freshfromflorida.com/forms/P-00094_RecoveryAgentHandbook.pdf, (Last visited January 22, 2016).

⁴⁹ See ss. 493.6203, 493.6303, and 493.6403, F.S.

- Identification of overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicant, and notification to the applicant of the overlaps and gaps.
- Assistance in identifying programs that offer training and education needed to meet the licensure requirements.

Additionally, beginning October 1, 2017, and annually thereafter, DACS is required to submit a report to the President of the Senate, Speaker of the House of Representatives, and Governor. The report must include the following:

- Number of applicants who identified themselves as veterans.
- Number of veterans whose applications for a license were approved, denied and reason for denial.
- Data on the application processing times for veterans.
- Information on DACS efforts to assist veterans in identifying programs that offer training and education needed to meet the requirements for licensure.
- Information on DACS identification of the most common overlaps and gaps between the requirements for licensure and the military training and education received and completed by the veteran applicants.
- Recommendations on ways to improve DACS' ability to meet the needs of veterans that would effectively address the challenges that veterans face when separating from military service and seeking a license for a profession or occupation regulated under ch. 493, F.S.

DHSMV

Present Situation⁵⁰

Troops to Truckers

Active duty and recently separated servicemembers that have experience driving large trucks in the military are currently eligible to obtain a Florida Commercial Driver License (CDL) without retaking the skills tests normally required. FMCSA Regulation 49 CFR, Section 383.77, gives states the authority to substitute two years of commercial motor vehicle safe driving experience in the military for the skills test portion of the commercial driver license skills test. The process allows states to assist veterans and active duty personnel in their transition from their military occupation to a civilian career.

Current law gives DHSMV the authority to waive the knowledge, endorsement, and skills tests for an applicant who is otherwise qualified and who surrenders a driver license issued by the U.S. Armed Forces if the driver applies for a Florida license of an equal or lesser classification.⁵¹ DHSMV implements this provision pursuant to agency rule.⁵² The provision:

- Allows active duty and those who are within 90 days of separation to qualify for the skills test waiver;
- Requires the applicant to meet all the test waiver requirements within 120 days of separation; and
- Requires the applicant to have driven military vehicles two years prior to the waiver application that in the civilian world would have required a CDL.

Specifically, applicants who seek a waiver of CDL skills testing due to military experience must do the following:

- Pass all required written knowledge exams for the CDL class and endorsements they will be issued.

⁵⁰ Information on the "Troops to Truckers" program is available at: <http://www.troopstotruckers.com/> (last visited January 7, 2016).

⁵¹ s. 322.12, F.S.

⁵² Rulemaking Authority: s. 322.02(6), F.S. Law Implemented: s. 322.12, F.S.

- Apply for the CDL qualification waiver while on active duty status or within 90 days of separation of service. The applicant must provide a military active duty identification card or DD-214 (military discharge papers). The skills test waiver process must be completed, and the CDL issued, within 120 days of separation from service.
- Certify that for at least two years immediately preceding the application, he or she operated a motor vehicle representative of the CDL class and endorsements for which he or she is applying.
- Present the Certification for Waiver of Skill Test for Military Personnel form⁵³ filled out in its entirety and signed by his or her commanding officer or designee.⁵⁴

Proposed Changes

The bill requires DHSMV and DMA to jointly conduct a pilot program to provide onsite commercial driver license testing opportunities to qualified members of the Florida National Guard pursuant to the DHSMV commercial driver license skills test waiver under s. 322.12, F.S., described previously. Testing must be held at a Florida National Guard Armory, an Armed Forces Reserve Center, or the Camp Blanding Joint Training Center. The pilot program shall be accomplished using existing funds appropriated to the departments.

DHSMV and DMA are required to submit, by June 30, 2017, a report on the results of the pilot program to the President of the Senate and the Speaker of the House of Representatives.

B. SECTION DIRECTORY:

- | | |
|------------|---|
| Section 1 | Amends s. 401.27, F.S., relating to emergency medical technician and paramedic personnel; standards and certification. |
| Section 2 | Amends s. 456.024, F.S., relating to members of the Armed Forces in good standing with administrative boards or DOH; spouses; licensure. |
| Section 3 | Creates s. 456.0241, F.S., relating to temporary training certificates for active duty military health care practitioners. |
| Section 4 | Creates s. 489.1131, F.S., relating to the extension of credit for relevant military service toward construction contracting licensure by DBPR. |
| Section 5 | Amends s. 489.511, F.S., relating to DBPR certifications, applications, examinations, and endorsements. |
| Section 6. | Creates s. 489.5161, F.S., relating to the extension of credit for relevant military service toward electrical and alarm system contracting licensure by DBPR. |
| Section 7. | Creates s. 493.61035, F.S., requiring DACS to extend credit for relevant military training and education towards the requirement for private security, private investigative and recovery services licensure. |
| Section 8. | Requires DHSMV and DMA to create and conduct a commercial driver license testing pilot program. |
| Section 9. | Provides an effective date of July 1, 2016. |

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

⁵³ A copy of the Certification for Waiver of Skill Test for Military Personnel form is available at: <http://www.flhsmv.gov/html/HSMV71054.pdf> (last visited January 7, 2016).

⁵⁴ Rule 15A-7.018, F.A.C., Military Qualifications for Waiver of Commercial Driver License Skills Test.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DOH

The revenues from health care practitioner licensure fees will be reduced due to the expansion of fee waivers for military spouses applying for licensure. The bill also allows the DOH to assess up to a \$50 application fee and renewal fee for temporary certificates for active duty military health care professionals. The DOH has the authority to waive the fee, yet if assessed, the fee revenues generated would support the regulatory expenses of the licenses. Since the implementation of current legislation granting fee waivers for honorably discharged veterans, the department has issued 150 licenses for a total of \$55,017 in unrealized revenue. Since implementation of legislation granting temporary licenses for military spouses, the department has issued 112 temporary licenses.⁵⁵ Currently, there is no temporary license available for active duty military health care professionals except for areas of critical need, which requires an active license in another state and has an application fee of \$300 (this fee is waived for active duty military health care professionals).

2. Expenditures:

According to each agency impacted by the bill, the fiscal impact is insignificant and implementation can be accomplished within existing resources.

DACS

According to DACS, the cost to implement the bill will be minimal with no recurring or non-recurring fiscal impact and “can be accomplished within existing resources.”⁵⁶ Currently, all moneys paid under ch. 493, F.S., are deposited in the Division of Licensing Trust Fund pursuant to s. 493.6117, F.S. There may be an insignificant negative fiscal impact connected to the review of current licensure requirements. This will be absorbed within agency resources.

DOH

The DOH may experience a recurring increase in workload associated with the expanded eligibility criteria of the military fee waiver for health care professional licensure. The number of qualified applicants who will apply for licensure is indeterminate; however, it is anticipated that current resources are adequate to absorb the impact.

The DOH provisions are also included in CS/HB 941 (SB 918).

DBPR

According to DBPR, there is no fiscal impact anticipated on the department.⁵⁷

DHSMV and DMA

There will be no additional costs to DHSMV for the commercial drivers’ license pilot program. Currently, DHSMV operates a program titled ‘Florida Licensing on Wheels (FLOW),⁵⁸ which provides a convenient method to renew a driver license, obtain a replacement driver license, change a name or address on a driver license, get an identification card, etc. This requirement may be incorporated into DHSMV’s existing FLOW program and will not have a negative fiscal impact on state funds.

According to DMA, there is no fiscal impact on the department. Implementation will be conducted during weekend training.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁵⁵ DOH HB 941 Agency Analysis, December 15, 2015.

⁵⁶ DACS SB 1504 Agency Analysis, January 25, 2016.

⁵⁷ DBPR HB 7105 Agency Analysis, February 12, 2016.

⁵⁸ Information on the FLOW program is available at the DHSMV FLOW website here: <http://www.flhsmv.gov/offices/FLOW.htm>

(last visited January 26, 2016).

STORAGE NAME: h7105a.GOAS

DATE: 2/16/2016

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Honorably discharged veterans may be able to utilize their experience, education, and training that they obtained while in the Armed Forces for the required education and training for various licenses issued by DACS, DOH, DBPR, and CDLs from DHSMV.

D. FISCAL COMMENTS:

Rulemaking may be required by DOH, DBPR, and DACS to develop veteran specific application processes and define what military education and training is substantially similar to current license requirements. Tracking mechanisms may need to be put in place for veterans' applications, approvals, denials, and the reasons for the denials. There may also be costs associated with preparing the annual reports required by DBPR, and DACS. According to each agency, the fiscal impact to implement the provisions of the bill will be insignificant and can be accomplished within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking may be required by DOH, DBPR, and DACS to develop veteran specific application processes and define what military education and training is substantially similar to current license requirements. Since 2010, the Legislature pursuant to s. 120.541(3), F.S., has required all rules having certain potential negative fiscal impacts exceeding \$1 million over five years be submitted to, and ratified by, the Legislature before the rule may go into effect. According to each agency, the fiscal impact to implement the provisions of the bill will be insignificant and can be accomplished within existing resources.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 2, 2016, the Veteran & Military Affairs Subcommittee adopted one amendment to the PCB. The amendment makes two changes to the DOH provision clarifying that:

- DOH determines what is considered a nationally recognized exam for EMTs and Paramedics; and
- Failure to obtain a passing score on a Florida health care practitioner exam precludes an applicant from being able to obtain the temporary training certificate.

This bill analysis has been updated to reflect the amendment.

