

**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 and Space

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BILL: SB 718

INTRODUCER: Senator Gruters

SUBJECT: Honor and Remember Flag

DATE: March 26, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 718 designates the Honor and Remember Flag as the state’s emblem of the service and sacrifice of the brave men and women of the Armed Forces of the United States who died in the line of duty. The bill authorizes both entities of the state and local governments to display the flag.

The bill specifies the days on which the Honor and Remember Flag may be displayed, and includes the display of the flag on days in which a member of the United States Armed Forces who is a state resident dies in the line of duty.

The bill further requires that the flag must be:

- Displayed in a manner designed to ensure visibility to the public;
- Displayed with no more than two other flags when displayed together on a flagpole; and
- Manufactured in the United States.

By July 1, 2020, a responsible department or agency or a participating local government may adopt regulations to implement the provisions of this bill.

By July 31, 2020, the Department of Management Services may begin procurement and distribution of the flag.

The bill takes effect January 1, 2020.

## II. Present Situation:

### Display of Flags

#### *Flag of the United States*

Current law requires the flag of the United States to be displayed daily when the weather permits, from a staff upon the state capitol and upon each county courthouse.<sup>1</sup> Additionally, the U.S. flag must be flown on election day at each polling place,<sup>2</sup> at each publicly supported and controlled auditorium,<sup>3</sup> the grounds of every public K-20 educational institution, and within each classroom of a public K-20 educational institution.<sup>4</sup> Further guidance on the protocol and display of the U.S. flag is provided by the Florida Department of State.<sup>5</sup>

#### *State Flag of Florida*

Section 256.015, F.S., directs the Governor to adopt a protocol on flag display. The protocol must provide guidelines for the proper display of the state flag and for the lowering of the state flag to half-staff on appropriate occasions, such as on holidays and upon the death of high-ranking state officials, uniformed law enforcement and fire service personnel, and prominent citizens.<sup>6</sup> The state flag must be displayed on the grounds of every public K-20 educational institution.<sup>7</sup>

#### *POW – MIA Flag*

The National League of Families POW-MIA flag is designated as the symbol of our nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing, and unaccounted for in Southeast Asia.<sup>8</sup> A POW-MIA flag must be displayed at each state-owned building at which the U.S. flag is displayed, if the POW-MIA flag is available free of charge to the agency that occupies the building and if the display is in accordance with federal laws and regulations.<sup>9</sup> The Department of Transportation must display the flag year-round at each rest area along an interstate highway in the state.<sup>10</sup> Additionally, the Department of Environmental Protection must display the POW-MIA flag year round at each state park where the U.S. flag is displayed.<sup>11</sup>

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<sup>1</sup> Section 256.01, F.S.

<sup>2</sup> Section 256.011, F.S.

<sup>3</sup> Section 256.11, F.S.

<sup>4</sup> Section 1000.06, FS.

<sup>5</sup> Florida Department of State, *Flag Protocols and display, The United States Flag*, available at <http://dos.myflorida.com/about-the-department/flag-and-seal-protocol/flag-protocols-and-display/> (last visited March 26, 2019).

<sup>6</sup> Section 256.015(1), F.S. See also Executive Office of the Governor, *Flag Protocol (Sept. 26, 2012)*, available at <http://www.flgov.com/wp-content/uploads/2012/09/EOG-Flag-Protocol-FINAL.pdf> (last visited March 26, 2019).

<sup>7</sup> Sections 256.032 and 1000.06(1), F.S.

<sup>8</sup> 36 U.S. Code s. 902(2).

<sup>9</sup> Section 256.12, F.S.

<sup>10</sup> Section 256.13, F.S.

<sup>11</sup> Section 256.14, F.S.

### ***Firefighter Memorial Flag***

The Division of State Fire Marshal of the Department of Financial Services is directed by law to design, produce, and implement the creation and distribution of an official state Firefighter Memorial Flag to honor firefighters who died in the line of duty.<sup>12</sup> The flag may be displayed at memorial or funeral services of firefighters who have died in the line of duty, at firefighter memorials, at fire stations, at the Fallen Firefighter Memorial located at the Florida State Fire College in Ocala, by the families of fallen firefighters, and at any other location designated by the State Fire Marshal.<sup>13</sup>

### ***Honor and Remember Flag***

The nonprofit organization Honor and Remember, Inc., states that they created the Honor and Remember Flag “to perpetually recognize the sacrifice of America’s military fallen service members and their families.”<sup>14</sup> The mission of the organization is to establish the Honor and Remember Flag as a nationally recognized flag.<sup>15</sup>

The Honor and Remember Flag has been endorsed by various military and veteran organizations.<sup>16</sup> Additionally, 24 states have already adopted the Honor and Remember Flag as an official state symbol of remembrance.<sup>17</sup>

In addition to other stated missions of Honor and Remember, Inc., financial donations and sales of Honor and Remember Flag merchandise including the flag itself, fund the ability of the organization to provide families of lost loved ones with personalized flags.<sup>18</sup>

### **III. Effect of Proposed Changes:**

This bill creates s. 256.16, F.S., and designates the Honor and Remember Flag as the state’s emblem of the service and sacrifice of the brave men and women of the United States Armed Forces who died in the line of duty.

The bill authorizes the flag to be displayed at state-owned buildings at which the United States flag is displayed, military memorials, and other locations deemed appropriate; and also at any local government building at which the United States flag is displayed or other local government location on the following days:

- Armed Forces Day, the third Saturday in May;

<sup>12</sup> Section 256.15, F.S.

<sup>13</sup> Section 256.15(1), F.S.

<sup>14</sup> Honor and Remember, *Our Mission*, available at <http://www.honorandremember.org/our-mission/> (last visited March 26, 2019).

<sup>15</sup> *Id.*

<sup>16</sup> Honor and Remember, *Supporters, Official Endorsements*, available at <http://www.honorandremember.org/category/supporters/official-endorsements/> (last visited march 26, 2019).

<sup>17</sup> Honor and Remember, *Home*, available at <https://www.honorandremember.org/> (last visited March 26, 2019). These states are: Delaware, Louisiana, North Carolina, Maryland, Oklahoma, Oregon, Pennsylvania, Utah, Virginia, Kansas, Arizona, Missouri, South Carolina, New Jersey, Indiana, Texas, Wisconsin, South Dakota, Tennessee, West Virginia, Minnesota, Wyoming, Nebraska, and Vermont.

<sup>18</sup> Honor and Remember, *FAQ, Where do the donations go?*, available at <http://www.honorandremember.org/faq/> (last visited March 26, 2019).

- Memorial Day, the last Monday in May;
- Flag Day, June 14;
- Independence Day, July 4;
- National POW-MIA Recognition Day, the third Friday in September;
- Veterans' Day, November 11;
- Gold Star Mother's Day, the last Sunday in September; and
- A day on which a member of the U.S. Armed Forces who is a resident of the state loses his or her life in the line of duty.

The flag may be displayed in a manner designed to ensure visibility to the public with no more than two additional flags when displayed together on a flagpole. Additionally, a flag displayed pursuant to these provisions of the bill must be manufactured in the United States.

The bill authorizes a department, agency, or local government responsible for a location for the flag to be displayed to adopt regulations by July 1, 2020. An employee may not be required to report to work solely to display the flag.

By July 31, 2020, the Department of Management Services may begin procurement and distribution of the flag.

The bill takes effect January 1, 2020.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

As stated above, the Governor is required to adopt protocol on the display of the State flag.<sup>19</sup> Each state-owned building at which the flag of the United States is displayed, must also display a POW-MIA flag.<sup>20</sup> The bill requires that the Honor and Remember Flag may be displayed with no more than two additional flags when displayed together on a flagpole. Because the POW-MIA flag is required to be flown with the United States flag on specific days and with no more than two other flags, it appears the State flag could not be flown on those days.

**VIII. Statutes Affected:**

This bill creates section 256.16 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**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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<sup>19</sup> Section 256.015(1), F.S.

<sup>20</sup> Section 256.12, F.S.