

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill creates the Military Base Protection Grant Program which will be administered by the Office of Tourism, Trade, and Economic Development.

B. EFFECT OF PROPOSED CHANGES:

The bill requires, by creating s. 163.3175, F.S., that local governments provide to military installations information regarding proposed changes to comprehensive plans, plan amendments, and proposed changes to land development regulations, including zoning changes and development orders that would, if approved, affect the intensity, density or use of property surrounding that installation. The commanding officer or his or her designee would be allowed to respond with written comments regarding any impacts on the installation, including but not limited to, whether the proposed changes will violate military safety and noise standards recommended in the U.S. Navy's and Air Force's Air Installation Compatible Use Zone (AICUZ) and the U.S. Army's Installation Environmental Noise Management (IENMP) programs or be incompatible with the findings of a Department of Defense Joint Land Use Study (JLUS). The local government is required to take the comments into consideration when making its decision.

To facilitate this exchange of information, a representative of the installation is included as an ex-officio non-voting member of the local government's land planning or zoning board. This addition will provide the opportunity for the rationale behind any responsive comments from the installation to be further explained and debated to the satisfaction of the board and the public.

The bill requires local governments that have a military base within their boundaries to amend the future use element of their comprehensive plan to include the compatibility of future development with the military installation. In doing so, criteria are to be included that would encourage such compatibility.

Section 163.3177, F.S., is also amended to require local governments to amend or update their future land use plan element to include these changes by June 30, 2006. The bill also requires the state planning agency, the Department of Community Affairs (DCA) to consider compatibility issues for military installations in coordination with the Department of Defense.

The bill amends s. 163.3187, F.S., to make a corresponding change providing that a comprehensive plan amendment that addresses criteria or compatibility with a military installation does not count toward the limitation on the frequency of the plan amendment.

The bill amends s. 16.3191, F.S., to require DCA to evaluate whether the criteria identified in future land use elements were successful in resolving the land use compatibility issues around military installations. Section 16.3191, F.S., currently requires DCA to evaluate the process each local government is making in implementing their comprehensive plan.

The bill establishes the Florida Military Base Protection Grant Program within the Office of Tourism, Trade, and Economic Development (OTTED). The bill provides an appropriation of \$12 million for the grant program. These funds are to be used to support local infrastructure projects which have a positive impact on the military values of defense installations in the state. Matching funds from local governments may be required. OTTED shall establish guidelines for this grant program.

The bill establishes the Office of Military Affairs within the Executive Office of the Governor with the head of the office appointed the Governor.¹ The purpose of the office is to assist the Governor in formulating and implementing strategies to protect Florida's bases for closure or realignment, booster the state's economy, and keep Florida a military friendly state.

The bill establishes the duties and responsibilities for the office, including providing continuing coordination of the BRAC process and providing support to the Governor's Advisory Council. After 2005, base closure and realignment issues do not necessarily disappear. Closures and realignment of missions under certain thresholds can be authorized by the Department of Defense without Presidential authorization. The office is charged with assisting the Governor on closure and realignment processes outside of the BRAC process.

This office is also directed to interact with all state agencies to determine how those agencies can better serve the host military communities and Florida's military families. The office is to also assist Enterprise Florida, Inc., in focusing Florida's resources on developing and expanding the state's military and associated defense industries. The office is further charged with assisting the Florida Defense Alliance in keeping Florida in a competitive military position. The newly created office is also charged with the responsibility of assisting in these volunteer efforts. And finally, the bill requires that the office shall not interfere with the responsibilities or jurisdiction of the Florida National Guard or of the Adjutant General.

PRESENT SITUATION

The Department of Defense is conducting another round of base realignments and closures (BRAC), during which military installations across the nation will be reviewed to determine whether functions and bases can be consolidated or closed. The BRAC process reflects a desire to eliminate excess capacity, experience the savings from that reduction in capacity, and fund higher priority weapon platforms and troop training. There have been four BRAC rounds between 1988 and 1995. During the 1993 round, four Florida bases were closed.²

Base Encroachment

The development of Florida has affected all its citizens, including its military citizens. Military installations that were once in isolated areas now find houses and roads immediately outside the perimeter fence. While such development does bring prosperity, development that encroaches upon a military installation jeopardizes the mission of that base. A base whose military value is diminished by incompatible land development becomes vulnerable to being closed or realigned under the BRAC process.

The Department of Defense currently has programs in place to respond to existing and potential threats of incompatible land development. These programs, the Navy's and Air Force's Air Installation

¹ Several other entities have been established within the Executive Office, including the Florida State Commission on Hispanic Affairs (s. 14.25, F.S.), the Florida Commission on African-American Affairs (s. 14.27, F.S.), the Citizen's Assistance Office (s. 14.26, F.S.), and the Office of Chief Inspector General (s. 14.32, F.S.).

² Florida lost the Naval Aviation Depot Pensacola, the Naval Aviation Station Cecil Field Jacksonville, the Naval Training Center Orlando, and Homestead Air Force Base.

Compatible Use Zone (AICUZ) Program and the Army's Installation Environmental Noise Management Program (IENMP) are designed to promote compatible development on and off base. Each base in Florida which has an aviation mission has a completed AICUZ program for its airfield. These programs provide information to local governments about noise and accident potential generated by base operations and encourages communities to adopt land use and zoning controls which restrict the type and density of developments around military airfields to ensure compatible development. Some states, in anticipation of BRAC, have statutorily adopted the development recommendations in the AICUZ programs.

Another Department of Defense program creates an opportunity for local governments and military installations to cooperatively develop measures designed to prevent encroachment. This program, called Joint Land Use Study (JLUS), provides for a land use study to be conducted in an area where a military installation is experiencing encroachment or incompatible development problems. The program can proceed only after there is agreement and support for the study from the base command and local government officials. A typical JLUS can cost between \$60,000 and \$120,000 depending on the complexity of the issues. This cost is shared by the Defense Department and the local government on a 75/25 percentage, respectively.

A JLUS is intended to be the community's planned response to the presence of the military installation. The recommendations provided in the study create a policy framework to support adoption and implementation of compatible development measures designed to prevent encroachment, safeguard the military mission, and protect the public health, safety, and welfare. Actual implementation of these measures would involve revisions to the community's comprehensive plan and traditional land and use controls, such as zoning, subdivision regulation, and structural height restriction. There is, however, no requirement that the local government implement any of the recommendations.

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985³ established a growth management system in Florida which requires each local government to adopt a comprehensive land use plan that includes certain mandatory and optional elements. This plan is intended to be the policy document guiding local governments in their land use decision making. The Department of Community Affairs (DCA) was required to adopt minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the statewide requirements of the Act. The Act, however, does not limit the broad statutory and constitutional powers of a local government to plan for and regulate local land use.

The Department of Community Affairs also has a military base encroachment initiative, the object of which is to assist local governments and military base commanders in assessing land use encroachment issues and developing practical solutions to mitigate incompatible uses.

In response to base closures under previous BRAC rounds, the state adopted legislation in the mid 1990's dealing with base closure, disposition of military property, and reuse plans for the closed bases.⁴ Probably most importantly, legislation was adopted aimed at future military base retention. As the legislative intent from that statute, in part, states, "The Legislature hereby recognizes that the state needs to coordinate all efforts that can facilitate the retention of all remaining military installations in the state. The Legislature, therefore, declares that providing such assistance to support the defense-related initiatives within this section is a public purpose for which public money may be used."⁵

Florida Defense Alliance

In 1998, the Florida Defense Alliance (FDA) was created within Enterprise Florida Inc. This action was in response to Florida bases being closed during previous BRAC rounds. The statutory charge to the

³ See s. 163.3161, F.S.

⁴ See s. 288.975, 288.976, 288.977, and 288.980, F.S.

⁵ See s. 288.980(1)(a), F.S.

FDA was "...to ensure that Florida, its resident military bases and missions, and its military host communities are in competitive positions as the United States continues its defense realignment and downsizing."⁶ The FDA also serves as an overall advisory body for Enterprise Florida on defense related matters. Enterprise Florida provides staffing for the FDA effort without any additional direct funding for this activity.

The FDA is comprised primarily of community representatives from each Florida county which hosts a military installation or is dealing with a base reuse program. Representatives from statewide businesses and defense related organizations are also included. State and federal legislators are involved as are representatives of Florida state agencies. Thirty one military leaders from various bases and commands act as liaisons to the FDA. In pursuing its mission, the FDA concentrates on activities to reduce the exposure of military bases to organizational threats, such as BRAC, and supports local efforts to address quality of life issues for Florida's service members.

Since March of 2003, the Governor has employed a defense coordinator within OTTED. This is the first full time state employee dedicated to working solely on military issues, aside from members of the Florida National Guard. However, the defense coordinator is not a statutorily created position or office with correspondingly identified duties. Nor is there direct funding in support of the position. Although other military issues are handled, the position primarily provides staffing to the Governor's BRAC Advisory Council. As such, the defense coordinator serves the dual role of executive director to the Advisory Council. Additional program and policy support is provided by the Enterprise Florida/FDA staff.

C. SECTION DIRECTORY:

Section 1: Creates s. 14.2018, F.S., creating the Office of Military and State Relations within the Office of the Governor; establishing the purpose of the office; and establishing the office's responsibilities.

Section 2: Creates s. 163.3175, F.S., establishing Legislative findings on the compatibility of development with military installations; providing for the exchange of information between local governments and military installations; providing Legislative findings; providing that each county in which a military installation is either wholly or partially located and each affected local government must transmit to the commanding officer of that installation information relating to proposed changes to comprehensive plans, plan amendments, and proposed changes to land development regulations that if approved would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation; providing that each county and affected local government will provide the military installation an opportunity to review and comment on the proposed changes; providing that the commanding officer may submit to the local government written comments regarding any adverse effects land use decisions may have on military installations and the commanding officer's opinion as to whether those proposed changes will violate the safety and noise standards contained in the AICUZ or whether the changes are incompatible with the IENMP and the findings of a Joint Land Use Study for the area if one has been completed; providing the county or affected local government may take into consideration any comments by the commanding officer or designee when making decisions regarding the comprehensive planning or land development regulation, the county or affected local government will forward a copy of the comments to the state land planning agency and the Office of Military and State Relations; provides that the commanding officer is encouraged to include information about any community planning assistance grants that may be available to the local government through the federal Office of Economic Adjustment; and defining the terms "affected local government" and "military installation."

⁶ See s. 288.980(1)(b), F.S.

- Section 3: Amends s. 163.3177, F.S., requiring as an element of a comprehensive plan the compatibility of the land uses on lands adjacent to or closely proximate to military installations; requiring that the future land use plan element must include criteria used to achieve compatibility of adjacent or closely proximate lands with military installations; requiring local governments to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element; requiring the transmittal of the updated or amended plan to the Department of Community Affairs by June 30, 2006; and requiring the state land planning agency to consider land use compatibility issues that are adjacent to or in close proximity to all military installations in coordination with the Department of Defense.
- Section 4: Amends s. 163.3187, F.S., relating to amendment of the adopted comprehensive plan, so that the amendments addressing criteria or compatibility of land uses adjacent to or in close proximity to military installations does not count toward the limitation on the frequency of plan amendments.
- Section 5: Amends s. 163.3191, F.S., relating to evaluation of the comprehensive plan; requiring an evaluation report to determine whether criteria for achieving compatibility for land adjacent to or in close proximity to military installations were successful in resolving land use compatibility issues.
- Section 6: Amends s. 288.980, F.S., creating the Military Base Protection Grant Program; requiring OTTED to implement the program; providing an appropriation of \$12 million for the grant program; provides for the purpose of the grant program; providing for the process by which projects are to be selected; authorizing matching contributions by local governments; and requiring OTTED to establish guidelines to implement the grant program.
- Section 7: The bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill appropriates \$12 million dollars from general revenue to the Office of Tourism, Trade, and Economic Development to fund the statutorily created Military Base Protection Grant Program for FY 2004-2005.

This bill will have a nominal fiscal impact on both the military installations and local governments that would be required to exchange information on proposed land use changes and provide comments pursuant to this legislation.

Local governmental units that would be required to update or amend their comprehensive plan to include compatibility with military installations and related criteria would experience the cost associated with making those changes. There are 22 military installations and three unified commands situated in 13 Florida counties. The cost of adopting a plan in those various counties would differ with the particulars of each location.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Pam Dana, a representative of the Office of Tourism, Trade and Economic Development's, e-mailed the following, "Please find the following point paper on why we oppose the recommendation in SB 1604/HB 705 that would create a new Office of Military Affairs (Office of Military and State Relations.)"⁷

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 2, 2004, the Commerce Committee passed out HB 705 as a committee substitute with a strike-all amendment that the committee favorably adopted. The strike-all amendment conforms HB 705 to SB/CS 1604. The strike-all amendment differs from the original bill by clarifying the relationship between property adjacent to a military installation and the military installation. The amendment also removes language from the bill that would require the commanding officer of a military installation to provide comments to a county related to the impact of the public health, safety, and welfare of incompatibility of land use near a military installation and whether the proposed changes support compatible land use.

⁷ E-mail from Pam Dana, OTTED (February 11, 2004) (on file with the Committee on Local Government & Veterans' Affairs).