

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 705 w/CS Military Affairs
SPONSOR(S): Evers
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1604

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Commerce</u>	<u>15 Y, 0 N w/CS</u>	<u>Winker</u>	<u>Billmeier</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>18 Y, 0 N</u>	<u>Smith</u>	<u>Cutchins</u>
3) <u>State Administration</u>	<u>5 Y, 0 N</u>	<u>Williamson</u>	<u>Everhart</u>
4) <u>Transportation & Econ. Dev. Apps. (Sub)</u>	<u></u>	<u></u>	<u></u>
5) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill provides for the exchange of information between local governments and military installations when land use decisions may impact operations at such installation. It requires local governments to amend the future land use element of their comprehensive plans to include the compatibility of future development with their military installation.

The bill creates the Office of Military and State Relations within the Executive Office of the Governor.

The bill also establishes the Florida Military Base Protection Grant Program within the Office of Tourism, Trade, and Economic Development and appropriates \$12 million for the grant program. Standard criteria for awarding the grant are statutorily adopted.

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

STORAGE NAME: h0705e.sa.doc
DATE: March 22, 2004

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:

PRESENT SITUATION

Base Realignment and Closure

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 purpose of the BRAC process is to eliminate excess capacity, experience savings from the reduction in capacity, and fund higher priority weapon platforms and troop training. Four BRAC rounds were conducted between 1988 and 1995; four Florida bases were closed during the 1993 round.¹

Base Encroachment

Florida's development has affected its citizens, including its military citizens. Military installations that were once located in isolated areas now find houses and roads immediately outside the perimeter fence. While such development brings prosperity, development that encroaches upon a military installation jeopardizes the mission of that base. As such, the base's military value is diminished by incompatible land development thereby making that base vulnerable to closure or realignment 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 are designed to promote compatible development on and off base.

The Air Installation Compatible Use Zone Program (Navy and Air Force) and the Installation Environmental Noise Management (AICUZ) Program (Army) 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. In anticipation of BRAC, some states have statutorily adopted the development recommendations in the AICUZ program.

¹ Florida lost the Naval Aviation Depot Pensacola, the Naval Aviation Station Cecil Field Jacksonville, the Naval Training Center Orlando, and Homestead Air Force Base.

The Joint Land Use Study (JLUS) Program creates an opportunity for local governments and military installations to cooperatively develop measures designed to prevent encroachment. It provides for a land use study to be conducted in an area where a military installation is experiencing encroachment or incompatible development problems. A JLUS is intended to be the community's planned response to the presence of a military installation.²

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985³ established a growth management system in Florida requiring each local government to adopt a comprehensive land use plan that includes certain mandatory and optional elements. This plan is the policy document guiding local governments in making land use decisions. The Department of Community Affairs (DCA) adopted 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 DCA 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.

Florida Defense Alliance

In 1998, the Florida Defense Alliance (FDA) was created within Enterprise Florida, Inc., in response to Florida base closures during previous BRAC rounds. The FDA serves as an overall advisory body for Enterprise Florida, Inc., on defense related matters. Enterprise Florida, Inc., provides staffing for the FDA without additional funding.

The FDA is comprised of community representatives from each Florida county hosting a military installation or dealing with a base reuse program, and representatives from statewide businesses and defense related organizations. State and federal legislators are involved as are representatives of Florida state agencies. 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, a defense coordinator has been employed 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 direct funding provided to support the position. The position primarily provides staffing to the Governor's BRAC Advisory Council.

Effect of Bill

The bill requires local governments to provide information to military installations regarding proposed changes to comprehensive plans, plan amendments, and land development regulations, including zoning changes and development orders that would, if approved, affect the intensity, density or use of

² 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. 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.

³ See s. 163.3161, F.S.

property surrounding that installation. The commanding officer or his or her designee is authorized to provide a written response 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 AICUZ and the 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 decisions. To facilitate this exchange of information, a representative of the installation is included as an ex-officio non-voting member of the local government land planning or zoning board.

The bill requires local governments with 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. Criteria are to be included that would encourage such compatibility. Local governments are also required to amend or update their future land use plan element to include these changes by June 30, 2006. The bill also requires the DCA to consider compatibility issues for military installations in coordination with the Department of Defense.

The bill provides 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 requires the DCA to evaluate whether the criteria identified in future land use elements are successful in resolving the land use compatibility issues around military installations.

The bill establishes the Florida Military Base Protection Grant Program within the Office of Tourism, Trade, and Economic Development (OTTED). It provides an appropriation of \$12 million for the grant program. These funds are for supporting 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 must establish guidelines for such program.

The bill establishes the Office of Military Affairs within the Executive Office of the Governor, with the head of the office appointed by the Governor. 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 duties and responsibilities for the office, including providing continuing coordination of the BRAC process and providing support to the Governor's Advisory Council on BRAC. This office is also directed to:

- Interact with state agencies to determine how those agencies can better serve host military communities and Florida's military families;
- Assist Enterprise Florida, Inc., in focusing Florida's resources on developing and expanding the state's military and associated defense industries;
- Assist the FDA in keeping Florida in a competitive military position; and
- Assist volunteer efforts.

Finally, the office must not interfere with the responsibilities or jurisdiction of the Florida National Guard or of the Adjutant General.

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.

Section 2: Creates s. 163.3175, F.S., providing for the exchange of information between local governments and military installations.

Section 3: Amends s. 163.3177, F.S., amending the list of elements to be included in a future land use plan.

Section 4: Amends s. 163.3187, F.S., providing that amendments that address criteria or compatibility of land uses do not count toward the limitation on frequency of amending comprehensive plans.

Section 5: Amends s. 163.3191, F.S., providing that evaluations of comprehensive plans include an evaluation of whether such criteria were successful in resolving land use compatibility uses for land adjacent to or in close proximity to military installations.

Section 6: Amends s. 288.980, F.S., creating the Military Base Protection Grant Program.

Section 7: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

See "FISCAL COMMENTS" section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

See "FISCAL COMMENTS" section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

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

This bill would 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 required to update or amend their comprehensive plans to include compatibility with military installations and related criteria would experience costs 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:

OTTED has expressed concerns regarding the creation of the Office of Military and State Relations. OTTED has expressed that the duties and responsibilities that will be performed by the Office of Military and State Relations is already performed by OTTED and the Department of Military Affairs. OTTED is also concerned about the lack of funding provided in the bill for the creation of such Office. The bill designates \$12 million to establish a Military Base Protection Grant Program, but does not appear to provide funding for the creation of the Office.⁴

The Department of Military Affairs has stated the creation of such Office "would not be good -- not necessary", and the duties and responsibilities of such Office are already provided through OTTED and the department.⁵

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.

⁴ Meeting with OTTED, March 17, 2004. Email from OTTED, February 11, 2004.

⁵ Email from Department of Military Affairs, February 12, 2004.