

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1003 Veterans  
**SPONSOR(S):** Agriculture and Natural Resources Policy Committee, Drake  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 348

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee	9 Y, 0 N, As CS	Thompson	Reese
2)	Policy Council	15 Y, 0 N	Liepshutz	Ciccone
3)	General Government Policy Council	13 Y, 0 N	Thompson	Hamby
4)				
5)				

### SUMMARY ANALYSIS

Charitable organizations that engage in solicitation activities in Florida must register with the Department of Agriculture and Consumer Services (DACS) and provide certain financial and background information as well as pay initial and annual renewal fees. Currently, there are three types of fundraising activities that are exempt from the registration and reporting requirements of Chapter 496:

- Applying for a grant or award from the government or from certain other groups that are tax exempt under the Internal Revenue Service Code (IRS Code);
- Soliciting for the benefit of a named individual (i.e., raising money for an individual's transplant operation);
- Soliciting by an organization that is limited solely to seeking contributions from its own membership.

CS/HB 1003 creates a new, additional exemption for any division, department, post, or chapter of a veteran's service organization that has been granted a corporate charter by an act of Congress. To identify the eligible organizations, the bill references to Title 36 of the U.S. Code which lists those national or patriotic corporations that have been granted a corporate charter by Congress. Federal law requires all the listed corporations to annually submit an independent audit and activity report to Congress.

The bill also addresses several other veterans' issues as follows:

- It deletes the requirement that to receive benefits under the Florida Service-Disabled Veteran Business Enterprise Opportunity Act, service-disabled veterans must have suffered at least a 10% service-connected disability;
- It codifies the Florida Department of Veterans Affairs' current policy that to be eligible for residency in the Veterans' Domiciliary Home of Florida (assisted living) or any of the four Veterans' Nursing Homes of Florida, a veteran must have been approved as eligible for care and treatment by the U.S. Department of Veterans Affairs; and,
- It revises the eligibility requirements for residency in any of the Veterans' Nursing Homes of Florida to also include veterans with peacetime service, not just those with wartime service.

Some of the provisions of the bill are expected to have a fiscal impact on state government and the private sector. For details, see the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT section of this analysis.

The bill's effective date is July 1, 2010.

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

**STORAGE NAME:** h1003e.GGPC.doc  
**DATE:** 4/11/2010

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Charitable Organizations

Chapter 496, F.S. requires charitable organizations that solicit funds in Florida to register with the Department of Agriculture and Consumer Services (DACS) and provide certain financial and background information. Before engaging in solicitation, they are required to file an initial registration statement, an annual renewal statement, and an annual financial report with the DACS.<sup>1</sup> Registration statements must contain prescribed information<sup>2</sup> and be accompanied by the appropriate fee.<sup>3</sup>

Every charitable organization -- or its parent organization filing on behalf of one or more chapters, branches, or affiliates that is required to register -- must pay a single registration fee. A parent organization must total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees are assessed as follows:

##### Ten dollars:

- if contributions received during the last fiscal or calendar year were less than \$5K; or
- if the contributions from the public during the immediately preceding fiscal year were no more than \$25K, and
  - fundraising was carried on by volunteers, members, officers, or permanent employees, who were not compensated, primarily to solicit contributions, and
  - none of the organization's assets or income inured to the benefit of any of its officers or members or any professional fundraising consultant, professional solicitor, or commercial co-venturer.

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<sup>1</sup> s. 496.405(1), F.S.

<sup>2</sup> s. 496.405(2), F.S.

<sup>3</sup> s. 496.405(4)(a), F.S.

However, if a registrant does not meet the conditions for paying the ten dollar registration fee, then the applicable fee depends on the total contributions raised during the last fiscal year:

<b>Contributions at Least Equal</b>	<b>But Are Less Than</b>	<b>Fee</b>
\$5K	\$100K	\$75
\$100K	\$200K	\$125
\$200K	\$500K	\$200
\$500K	\$1M	\$300
\$1M	\$10M	\$350
\$10M or more		\$400

A charitable organization may be assessed a \$25 fee for each month of late filing after the date on which the annual renewal statement and financial report were due to be filed with the DACS.<sup>4</sup>

Currently, there are three types of fundraising activities that are exempt from the registration and reporting requirements of Chapter 496:

- Applying for a grant or award from the government or from certain other groups that are tax exempt under the Internal Revenue Service Code (IRS Code);<sup>5</sup>
- Soliciting for the benefit of a named individual (i.e., raising money for an individual's transplant operation);<sup>6</sup>
- Soliciting by an organization that is limited solely to seeking contributions from its own membership.<sup>7</sup>

### Title 36 Organizations

Currently, Title 36, Subtitle II, Part B of the U.S. Code lists national or patriotic non-profit corporations who have been granted corporate charters by act of Congress and whose primary purpose is to promote patriotic, charitable, educational, or other eleemosynary activities. Generally, these chartered organizations are referred to under any of three terms: "Congressionally chartered organizations;" "Title 36 corporations;" and "patriotic societies." The corporations listed in Title 36 are not agencies of the United States, and the charter does not assign any governmental attributes.<sup>8</sup> Many of these organizations are military veteran services oriented organizations.

Currently, federal supervision of congressionally chartered nonprofit organizations is limited. All "private corporations established under federal law," as defined and listed in Subtitle II, are required to have independent audits annually, and to have the reports of the audits submitted to Congress.<sup>9</sup> Such organizations are also required to submit annual reports of their activities to Congress.

<sup>4</sup> s. 496.405(4)(b), F.S.

<sup>5</sup> s. 496.405(20), F.S.; see, "flush-left" language at end of subsection.

<sup>6</sup> s. 496.406(1), F.S.

<sup>7</sup> s. 496.406(2), F.S. (providing also that for the purpose of qualifying for the exemption, the "term 'membership' does not include those persons who are granted a membership upon making a contribution as a result of a solicitation").

<sup>8</sup> CRS Report for Congress, Congressionally Charters Nonprofit Organizations ("Title 36 Corporations"): What They Are and how Congress Treats Them; Updated April 8, 2004; Ronald C. Moe, Consultant in American National Government

<sup>9</sup> 36 U.S.C. 10101

## Disabled Veterans

The intent of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act<sup>10</sup> (Act) is to rectify the economic disadvantage of service-disabled veterans by providing opportunities for service-disabled veteran business enterprises. In order to qualify for such opportunities, a service-disabled veteran who is a permanent Florida resident must have suffered a service-connected disability of 10 percent or greater as determined by the United States Department of Veterans Affairs.

The Veterans' Domiciliary Home of Florida<sup>11</sup> (Veterans' Home) is for veterans who served in wartime service or peacetime service.<sup>12</sup> The Veterans' Home, essentially an assisted living facility, is maintained for the use of those veterans who do not require hospitalization or nursing home care. To be eligible for residency in the Veterans' Home, a veteran must meet certain service-related criteria.

The purpose of the Veterans' Nursing Home of Florida Act<sup>13</sup> is to establish basic standards for the operation of skilled nursing homes for veterans in need services who possess an honorable discharge and have served in specified campaigns.<sup>14</sup> To be eligible for residency in any of the four skilled nursing homes, a veteran must meet certain service-related criteria.

## **Proposed Changes**

The effect of this proposal clarifies several sections of Florida law pertaining to Veterans' services, and reduces duplicate fundraising requirements for Veterans' Services Organizations. As a result, Florida veterans should be provided a more efficient system of health and long term care, and Veterans' Services organizations should be able to fundraise more efficiently.

## CS/HB 1003

- Amends s. 496.406, F.S., to exempt any division, department, post, or chapter of a veterans' service organization that has been granted a federal charter under Title 36, U.S.C.;
- Deletes the eligibility requirement that service-disabled veterans must have suffered a 10% or greater service-connected disability in order to be eligible to receive any of the benefits provided for under the Florida Service-Disabled Veteran Business Enterprise Opportunity Act;
- Codifies the Florida Department of Veterans Affairs' current policy that to be eligible for residency in the Veterans' Domiciliary Home of Florida (assisted living) or any of the four Veterans' Nursing Homes of Florida (skilled nursing), a veteran must have been approved as eligible for care and treatment by the U.S. Department of Veterans Affairs; and,
- Revises the eligibility requirements for residency in any of the Veterans' Nursing Homes of Florida to also include veterans with peacetime service, not just those with wartime service.

## **B. SECTION DIRECTORY:**

Section 1. Amends s. 496.406, F.S., exempting any division, department, post, or chapter of a veterans' service organization granted a federal charter under Title 36, U.S.C., from the requirements to register with the Department of Agriculture and Consumer Services.

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<sup>10</sup> s. 295.187, F.S.

<sup>11</sup> Chapter 296, Part I

<sup>12</sup> s. 296.02, F.S.

<sup>13</sup> Chapter 296, Part II

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

Section 2. Amends s. 295.187, F.S., revising the definition of the term "service-disabled veteran" for eligibility purposes provided for under the Florida Service-Disabled Veteran Business Enterprise Opportunity Act.

Section 3. Amends s. 296.06, F.S., revising eligibility requirements for residency in the Veterans' Domiciliary Home of Florida.

Section 4. Amends s. 296.36, F.S., revising eligibility requirements for admittance into a licensed health care facility operated by the Department of Veterans' Affairs.

Section 5. Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

According to the DACS, in Fiscal Year 2008-09, military veterans' organizations that were registered with the DACS paid annual registration fees totaling \$41,660. Exempting these organizations from registration requirements may create a loss of state revenue.

#### 2. Expenditures:

According to the Department of Veterans' Affairs (DVA), the bill will have no fiscal impact. DVA currently admits wartime and peacetime veterans, a policy which is not clear in current statute. The proposed legislation clarifies existing DVA policy.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None

#### 2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments below.

### D. FISCAL COMMENTS:

Making the eligibility more inclusive for the Florida Service-Disabled Veteran Business Enterprise Opportunity Act may help to rectify the economic disadvantage of additional veterans and as a result, have a positive fiscal impact on the private sector.

To the extent that the bill may improve the health of service-disabled veterans in Florida by providing additional access to medical care through more inclusive domiciliary and nursing home eligibility requirements, associated medical and insurance costs to the private sector may be decreased.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

None

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 11, 2010, the Agriculture and Natural Resources Policy Committee adopted one amendment to the bill. The amendment:

- Exempts any division, department, post, or chapter of a veterans' service organization that has been granted a federal charter by act of Congress. The original bill exempted reputable military veterans' associations or organizations that are registered with the Department of Veterans' Affairs (DAV). Since those veterans' groups currently do not register with the DVA, the original bill would not have accomplished its purpose of exempting them from the registration requirements of Chapter 496.
- Revises the definition of the term "service-disabled veteran" in the Florida Service-Disabled Veteran Business Enterprise Opportunity Act by deleting the service-connected disability constraint of 10% or greater.
- Codifies the Florida Department of Veterans Affairs' current policy that to be eligible for residency in the Veterans' Domiciliary Home of Florida (assisted living) or any of the four Veterans' Nursing Homes of Florida (skilled nursing), a veteran must have been approved as eligible for care and treatment by the U.S. Department of Veterans Affairs; and,
- Revises the eligibility requirements for residency in any of the Veterans' Nursing Homes of Florida to also include veterans with peacetime service, not just those with wartime service.

The bill was reported favorably as a Committee Substitute. The analysis reflects the Committee substitute.