

**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 Community Affairs Committee

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BILL: PCS/SB 274 (870970)

INTRODUCER: Community Affairs Committee

SUBJECT: Domestic Security

DATE: April 5, 2010

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	<b>Pre-meeting</b>
2.			EP	
3.			TA	
4.			RC	
5.				
6.				

**I. Summary:**

The proposed committee substitute (PCS) specifies which local governments are affected by military bases. The PCS authorizes commanding officers to provide comments on local government waivers that may have an effect on the military installation. The PCS requires local governments that fail to meet the future land use element requirements by June 30, 2012, to go into mediation and creates the potential for sanctions from the Administration Commission. The PCS protects the homestead exemption of active military and their spouses and allows the spouses to receive a temporary professional license if they are with their active duty spouse. The PCS allows the Adjutant General to hire an Assistant Adjutant General, and changes accrediting body for the Adjutant General's education program.

This PCS substantially amends the following sections of the Florida Statutes: 163.3175, 163.3177, 196.061, 250.10, and 455.02.

**II. Present Situation:**

The military in Florida has a significant impact on Florida's economy. According to the Florida Defense Alliance, in 2005, the military represented an estimated \$52 billion in gross state product with more than 732,300 jobs and \$1 billion in state and local tax revenues.<sup>1</sup>

**Military Compatibility**

There are several sections of law that deal with military compatibility with local land uses. Military bases can interfere with local land uses, and conversely, local land uses can interfere with the proper functioning of military bases. Section 163.3175, F.S., requires the exchange of

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<sup>1</sup> FLORIDA DEFENSE ALLIANCE, FLORIDA DEFENSE FACTBOOK (Jan. 2008), available at <http://uwf.edu/haas/pdfs/impactStudies/factbook2008.pdf>.

information between local communities and military installations when land use decisions may affect operations at an installation. Section 163.3175, F.S., also specifies issues that the installation’s commanding officer may address in commenting on a proposed land use change and requires a local government to consider the commanding officer’s comments. It also requires a representative of the military installation to be included as an ex-officio, nonvoting member of the affected local government’s land planning or zoning board.

In addition, s. 163.3177(6)(a), F.S., requires a local government to amend the future land use plan element of its comprehensive plan to address the compatibility of future uses on lands adjacent or closely proximate to military installations and to include criteria to achieve that compatibility. This date was later changed to June 30, 2012.

In 2008, the Florida House of Representatives Committee on Military & Veterans’ Affairs, conducted an interim project on military base encroachment.<sup>2</sup> The Survey of Local Governments distributed as part of this project asked whether each local government complied with statutory requirements to amend their comprehensive plan by June 30, 2006, to address military compatibility issues. According to the survey responses, 10 counties and 14 cities reported that they had not complied with the statutory requirement to update their comprehensive plans to include military compatibility criteria (8 counties and 7 cities had adopted updates by 2008). The DCA reports that “[a]bout 75% of the affected local governments have missed the June 30, 2006, due date, probably because there is no consequence to them of doing so.”

The 2008 Survey of Military Installations distributed as part of this project sought to determine whether local governments were complying with the statutory requirement of providing information to military installations regarding the adoption of comprehensive plans, amendments, or land use regulations. According to survey responses from the Air Force and Navy, the local governments appeared to generally comply with statutory requirements and consider the military’s comments during the planning process.

**MILITARY BASE COORDINATION AND COMPATIBILITY  
LOCAL GOVERNMENT IMPLEMENTATION STATUS<sup>3</sup>**

STATUS	LOCAL GOVERNMENTS	TOTAL
Completed Planning Board Appointment and Plan Amendment	Bradford County Brevard County Clay County Escambia County Gulf County Highlands County Homestead Jacksonville-Duval County Marion County Parker	13

<sup>2</sup> The results of the 2008 Committee on Military & Veterans’ Affairs interim project are found in “Military Encroachment: A White Paper” available at: <http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2345&Session=2008&DocumentType=Reports&FileName=Military Base Encroachment.pdf>

<sup>3</sup> Department of Community Affairs.

	Santa Rosa County Satellite Beach (3175 coordination only; amendment not needed) Volusia County	
Adopted Amendment Under Review		0
Partially Completed	Okaloosa County (only coordination policies adopted) Tampa (only coordination policies adopted) Mexico Beach (does not address the entire city)	3
Amendment Proposed, but not yet adopted	Putnam County (proposed in 2007) Lake County (ORC due 4/2/2010) Fort Walton Beach (ORC due 4/4/2010)	3
Joint Land Use Study Recently Completed, but Amendment Not Yet Submitted	Bay County Panama City Panama City Beach Cinco Bayou Crestview Destin Laurel Hill Mary Esther Niceville Shalimar Valparaiso Walton County DeFuniak Springs Freeport	14
Waiting for Joint Land Use Study to be Completed	Avon Park Frostproof Okeechobee County Osceola County Polk County Sebring	6
No Action	Key West Monroe County Miami-Dade County	3

Last update: 3/8/10

**Homestead Exemptions for the Military**

Section 196.061, F.S., provides that rental of a dwelling previously claimed to be a homestead constitutes abandonment. However, this provision does not apply to a member of the Armed Forces whose service is a result of a mandatory obligation imposed by the Selective Service Act or who volunteers for service as a member of the Armed Forces.<sup>4</sup> Several property appraisers permit active duty members to rent their homesteads and retain their homestead exemption if they are transferred out of the area on orders and notify the property appraiser.<sup>5</sup>

<sup>4</sup> In 1971, the Attorney General concluded that a service member is entitled to a homestead exemption even though he may be transferred elsewhere during his ownership, and rental of such property does not constitute abandonment. Op. Att’y Gen. Fla. 71-055 (1971).

<sup>5</sup> For example, the Osceola County Property Appraiser states that “if you are a member of the armed forces on active military duty, you are permitted to rent your home, but you must notify the office in advance and provide your military orders.” <http://www.osceola.org/index.cfm?lsFuses=department/PropertyAppraiser/HomesteadExemption>, last visited on March 5, 2010.

### **Adjutant General**

Subject to confirmation by the Senate, the Governor must appoint all commissioned officers of the militia,<sup>6</sup> including an Adjutant General. The Adjutant General is the chief of staff and the head of the Department of Military Affairs.<sup>7</sup>

The qualifications and duties of the Adjutant General are set forth in s. 250.10(1), F.S. Among other things, the Adjutant General is responsible for supervising all troops, arms, and branches of the militia including their armament and supplies. In addition, the Governor may delegate the authority to convene a general court-martial to the Adjutant General.<sup>8</sup> The Adjutant General must employ an Assistant Adjutant General for the Army, an Assistant Adjutant General for Air forces, and a state quartermaster.

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

**Section 1** of the PCS amends s. 163.3175, F.S. to:

- list the communities affected by military bases, which ss. 163.3175 and s. 163.3177(6)(a) apply to;
- specify that the Florida Council on Military Base and Mission Support may recommend to the Legislature changes to the military installations and affected local governments based on a military base's potential for impacts from encroachment;
- allow the commanding officer to require the local government to transmit copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or soundproofing requirements within areas defined in the local government's comprehensive plan as being in a zone of influence of the military installation;
- require DCA and other parties shall enter into mediation, if a local government does not adopt criteria and address compatibility of by military installations:
  - if the local government comprehensive plan does not contain criteria addressing compatibility by Dec. 31, 2013, the Administration Commission may impose sanctions.
- delete the definitions of "affected local government" and "military installation."

**Section 2** amends s. 163.3177, F.S., to require the future land use plan element to include criteria to be used to achieve the compatibility of lands adjacent or closely proximate to military installations based on factors identified in s. 163.3175(5), which includes safety, noise, compatibility, and whether the military mission will be adversely affected.

**Section 3** amends s. 196.061, F.S., to provide that valid military orders are sufficient to maintain permanent residence for homestead purposes for the officer and his or her spouse.

**Section 4** retitles s. 455.02, F.S., to read "Licensure of members of the Armed Forces in good standing with administrative boards and their spouses." The PCS allows the Department of Business and Professional Regulation to issue temporary professional licenses to spouses as long as the spouse provides certain required information. The PCS requires that the spouse submit

<sup>6</sup> Art. X, § 2(c), Fla. Const.

<sup>7</sup> Art. X, § 2(c), Fla. Const.; s. 250.10(1), F.S.

<sup>8</sup> *Id.*

their fingerprints to the Florida Department of Law Enforcement, which shall be forwarded to the Federal Bureau of Investigation for a background check. There is a fee associated with the application, and the application expires after 6 months and is not renewable.

**Section 5** amends s. 250.10, F.S., to allow the Adjutant General, subject to confirmation by the Senate, to employ an additional federally recognized officer of the Florida National Guard with certain qualifications to be an Assistant Adjutant General for Army. The body that accredits the Adjutant General's education programs is changed from the Commission on Colleges of the Southern Association of Colleges and Schools to any accrediting body recognized by the U.S. Department of Education or licensed by the Commission for Independent Education.

**Section 6** provides an effective date.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that the military is a \$60 billion industry, the PCS helps ensure the continued presence of the military by facilitating communication between military installations and local governments. Action taken to protect or increase the military presence in Florida will have a positive impact on the private sector. However, encroachment may negatively impact individual property owners.

The PCS will ensure that active duty members of the Armed Forces and his or her spouse will not lose their homestead exemption when the member is deployed out of the state. The PCS also allows the spouses of members of the Armed Forces who are on active duty in the state, to receive a temporary professional license. The fee for a background check is \$43.25, which is a cost to the private sector.

C. **Government Sector Impact:**

The Florida Department of Law Enforcement will receive \$24 for each background check, which is deposited into the FDLE Operating Trust Fund.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

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

**PCS (870970) by Community Affairs:**

The proposed committee substitute (870970) specifies which local governments are affected by military bases. The PCS authorizes commanding officers to provide comments of local government waivers that may have an effect on the military installation. The PCS requires local governments that fail to meet the future land use element requirements by June 30, 2012, to go into mediation and creates the potential for sanctions from the Administration Commission. The PCS protects the homestead exemption of active military and their spouses and allows the spouses to receive a temporary professional license if they are with their active duty spouse. The PCS allows the Adjutant General to hire an Assistant Adjutant General, and changes accrediting body for the Adjutant General's education program.

B. **Amendments:**

None.