

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.)

Prepared By: The Professional Staff of the Military Affairs and Domestic Security Committee

BILL: CS/SB 274

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Domestic Security

DATE: April 16, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wolfgang	Yeatman	CA	Fav/CS
2.	Pardue	Pardue	MS	Favorable
3.			CJ	
4.			TA	
5.			RC	
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This committee substitute (CS) for SB 274 specifies which local governments are associated with and affected by Florida’s military bases. The CS authorizes commanding officers to request copies of variances and waivers from local governments that may affect the military installation. The CS 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 CS protects the homestead exemption of active duty military and their spouses and allows spouses to receive a temporary professional license if they are accompanying their active duty service member. The CS authorizes the Adjutant General to establish a second Assistant Adjutant General (Army) position and changes the body that accredits educational institutions authorized under the National Guard’s education program.

Regarding Florida’s public seaports, the CS:

- prohibits seaports from charging identity credential administrative fees in addition to the fee for the federal Transportation Worker Identification Credential (TWIC) – if a seaport attempts to pass through its administrative fees it can be charged a fine;
- removes the requirement that workers on the seaport must get state criminal history checks;
- deletes the access eligibility reporting system;

- deletes the minimum seaport security standards established in current Florida law; and
- deletes the requirement that persons seeking access to restricted areas execute affidavits.

This CS substantially amends the following sections of the Florida Statutes: 163.3175, 163.3177, 196.061, 250.10, 311.12, 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.¹

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 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.² 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,

¹ FLORIDA DEFENSE ALLIANCE, FLORIDA DEFENSE FACTBOOK (Jan. 2008), available at <http://uwf.edu/haas/pdfs/impactStudies/factbook2008.pdf>, last viewed on April 16, 2010.

² 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/loaddoc.aspx?PublicationType=Committees&CommitteeId=2345&Session=2008&DocumentType=Reports&FileName=Military Base Encroachment.pdf>, last viewed on April 16, 2010.

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 STATUS³**

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 Santa Rosa County Satellite Beach (3175 coordination only; amendment not needed) Volusia County	13
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

³ Department of Community Affairs.

No Action	Key West Monroe County Miami-Dade County	3
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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.⁴ 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.⁵

Seaport Security⁶

Drugs

Concern over the impact of illicit drugs and drug trafficking came to the forefront in Florida during the mid to late 1990’s. According to a Senate Interim Project Summary report at the time, in 1997 there were more cocaine-related deaths in Florida than murders. During 1996, more than 32 tons of cocaine and more than 42 tons of marijuana were seized in Florida.⁷

In the 1999-2000 timeframe, three events contributed to the development of a seaport security framework for Florida:

A legislative task force that examined, among other things, the issue of money laundering related to illicit drug trafficking.⁸ The task force found that Florida was attractive to drug traffickers due to a number of factors including Florida’s strategic position near drug source countries and numerous international airports and deep water seaports.⁹ The task force provided a number of recommendations including designating a state agency responsible for seaport and airport security and described the then current seaport security situation by saying: “Customs considers poor seaport security a major reason for drug smuggling. Unlike airports, there is no viable system of federal regulations mandating specific security standards for seaports and marine terminals. Fairly new regulations govern security for large passenger vessels and cruise ship terminals. There are however, no corresponding federal regulations for sea cargo vessels and seaport and marine terminals.”¹⁰

⁴ 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).

⁵ 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?IsFuses=department/PropertyAppraiser/HomesteadExemption>, last visited on March 5, 2010.

⁶ Florida SENATE INTERIM REPORT 2009-122, FLORIDA SEAPORT SECURITY (Oct. 2008).

⁷ FLORIDA SENATE, INTERIM REPORT 98-13, DEVELOPING A COMPREHENSIVE DRUG CONTROL STRATEGY FOR FLORIDA (Nov., 1998).

⁸ Legislative Task Force on Illicit Money Laundering, “Money Laundering in Florida: Report of the Legislative Task Force”, November 1999.

⁹ Ibid, p. 18.

¹⁰ Ibid, p. 46.

The Executive Office of the Governor's Office of Drug Control commissioned a Statewide Security Assessment of Florida Seaports. The report, titled the Camber Report,¹¹ concluded that there was no supervisory agency over all the seaports of the state, no federal or state security standards that governed the seaports' operation, and only limited background checks were conducted on employees at the docks, thus allowing convicted felons, some with arrests for drug-related charges, to work at the seaports. The report recommended the creation of a "State Seaport Authority" to regulate all seaports in the state, creation of minimum security standards for all seaports, and the creation and implementation of a security plan by the operators of each seaport. The Fifteenth Statewide Grand Jury conducted an analysis of Florida's drug control efforts. The Statewide Grand Jury supported the conclusions and recommendations of the Camber Report and highlighted the need for background screening due to testimony they received that "some dock workers carry firearms and that intimidation by dock workers is used as a method of avoiding detection of illegal drug activity." The report cited efforts to impede law enforcement officers at the Miami seaport including simple harassment, blocking law enforcement vehicles with cargo containers, and even dropping a cargo container on a law enforcement vehicle occupied by police canine. Testimony revealed that as many as 60 percent of the Port of Miami dock workers had felony arrests, half of which were drug related charges.¹²

The 2000 Legislature passed CS/CS/CS/SB 1258.¹³ This legislation provided additional regulations for money laundering and created s. 311.12, F.S., relating to seaport security. In creating s. 311.12, F.S., the Legislature introduced regulation of seaports that benefited from public financing and provided for:

Development and implementation of a statewide seaport security plan including minimum standards for seaport security that address the prevention of criminal activity and money laundering;

Development of individual seaport security plans at each of the ports listed in s. 311.09 (1), F.S.¹⁴,

Establishment of a fingerprint-based criminal history check of current employees and future applicants for employment at Florida's seaports; and

A requirement directing the Florida Department of Law Enforcement (FDLE) to annually conduct no less than one unannounced inspection at each of the public ports and report its findings to the Governor, the President of the Senate, the Speaker of the House, and the chief administrator of each seaport inspected.

Section 311.12, F.S., was amended during the 2001 Legislative Session to incorporate seaport security standards.¹⁵ The section has been further amended to disqualify persons who have been convicted of certain offenses within the previous seven years from gaining initial employment within or regular access to a seaport or port restricted access area. Current disqualifying offenses

¹¹ Camber Corporation for the Office of Drug Control, Executive Office of the Governor, "Statewide Security Assessment of Florida Seaports," September 2000.

¹² Fifteenth Statewide Grand Jury Report, "An Analysis of Florida's Drug Control Efforts," December 14, 2000.

¹³ 2000-360, Laws of Florida (L.O.F.)

¹⁴ The seaports listed in s. 311.09(1), F.S., include the ports of Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina. The ports of Fort Pierce and Port St. Joe are currently exempted from annual inspection under the provisions of s. 311.12, F.S., based on a finding that these seaports are considered inactive for purposes of the statute.

¹⁵ Note: Camber Report standards were incorporated in s. 311.12, F.S., by 2001-112, L.O.F. These standards form the basis for FDLE's current seaport security inspection program.

relate to terrorism, distribution or smuggling of illicit drugs, felony theft and robbery, money laundering, and felony use of weapons or firearms.

Terrorism

The terrorist attacks on America brought security issues into sharper focus. Florida adapted its existing seaport security structure to accommodate anti-terrorism measures in addition to its previous efforts against illicit drug trafficking, cargo theft, and money laundering.

Since September 11, 2001, the U.S. Congress has produced multiple pieces of legislation that affect seaport security. This effort included passage of the Homeland Security Act of 2002 which resulted in a major governmental reorganization that created the Department of Homeland Security (DHS).¹⁶ The U. S. Customs and Border Protection agency (CBP) was transferred to DHS with the mission to prevent terrorists and terrorist weapons from entering the U. S.¹⁷ The U. S. Coast Guard (USCG) was also transferred to DHS and given the mission of lead federal agency for maritime homeland security including ports, waterways, and coastal security as well as drug interdiction.¹⁸

Congress passed the Maritime Transportation Security Act (MTSA) in November of 2002, which laid out the federal structure for defending U.S. ports against acts of terrorism. In passing MTSA, Congress set forth direction for anti-terrorism activities but also recognized in its findings that crime on ports in the late 1990's including, drug smuggling, illegal car smuggling, fraud, and cargo theft had been a problem. In laying out a maritime security framework, MTSA established a requirement for development and implementation of national and area maritime transportation security plans, vessel and facility security plans, and a transportation security card¹⁹ along with requirements to conduct vulnerability assessments for port facilities and vessels and establishment of a process to assess foreign ports, from which vessels depart on voyages to the United States.²⁰

The MTSA is implemented by Title 33 Code of Federal Regulations (CFR).²¹ Title 33 CFR provides for review and approval of Facility Security Plans²² by the Captain of the Port (COTP)

¹⁶ The Homeland Security Act of 2002, P.L. 107-296 (2002).

¹⁷ Department of Homeland Security Fact Sheet @ www.dhs.gov/dhspublic/display?theme=43&content=5437&print=true.

¹⁸ Congressional Research Service, "Homeland Security: Coast Guard Operations – Background and Issues for Congress," October 25, 2006. Note: According to this report, under the Ports and Waterways Safety Act of 1972 (P.L. 92-340) and the Maritime Transportation Security Act of 2002 (P.L. 107-295 of November 25, 2002), the Coast Guard has responsibility to protect vessels and harbors from subversive acts. With regard to port security, the Coast Guard is responsible for evaluating, boarding, and inspecting commercial ships approaching U. S. waters, countering terrorist threats in U.S. ports, and helping protect U. S. Navy ships in U. S. ports. A Coast Guard officer in each port area is designated the COPT to serve as the lead federal official for security and safety of vessels and waterways in that area.

¹⁹ The Maritime Transportation Security Act of 2002 (P.L. 107-295 of November 25, 2002).

²⁰ Government Accountability Office, "Maritime Security, One Year Later: A Progress Report on the SAFE Port Act," GAO-18-171T, October 16, 2007, p. 1.

²¹ Title 33 CFR, Parts 101 through 106 which are administered by the USCG.

²² Title 33 CFR, Subpart 101.105 defines a facility as any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the U.S. and used, operated, or maintained by a public or private entity, including any contiguous or adjoining property under common ownership or operation. A seaport may be considered a facility by itself or in the case of large seaports may include multiple facilities within the port boundaries.

responsible for each seaport area.²³ The USCG also acknowledged Presidential Executive Order 13132 regarding the principle of Federalism and preemption of state law in drafting MTSA rules.²⁴ Under this provision, Florida has the right to exercise authority over its public seaports that are also regulated by federal authority when there is no conflict between state and federal regulations.²⁵

The SAFE Port Act, enacted in October 2006, created some new maritime security programs and amended some of the original provisions of MTSA. The act:

Codified the Container Security Initiative and the Customs-Trade Partnership Against Terrorism (C-TPAT) which are two programs administered by CBP to help reduce threats associated with cargo shipped in containers;

Established the Domestic Nuclear Detection Office which is responsible for conducting research, development, testing, and evaluation of radiation detection equipment; and

Required that all containers entering high volume U.S. ports be scanned for radiation sources by December 31, 2007.²⁶

Transportation Security Cards

MTSA required the adoption of a nationwide transportation security card. In response, federal efforts led to the development of the Transportation Worker Identification Credential (TWIC). The goal of the TWIC program is to provide a single nationwide transportation industry access credential that, after completion of a screening process including background check,²⁷ will signify eligibility for unescorted access to a facility. Florida seaport administrators believe that final facility access should be granted to TWIC card holders after verification of a valid business purpose on the port. Most Florida seaports then issue a local port access card that grants various permissions to move about the port. In most cases, local port access cards are not recognized by other state ports. Thus, persons seeking access to multiple ports must obtain a TWIC card and multiple local cards, each with a separate cost paid by the applicant or the applicant's employer. The Port of Palm Beach adopted the TWIC as its sole access credential. Palm Beach is quick to point out that such action is possible due to the port's smaller size and may not be possible at larger ports that have a need to limit access among diverse restricted areas on their ports.

The TWIC program has a long history of development problems since the program began in 2002 and concluded with a final implementation deadline of April 15, 2009. The TWIC credential's bio-metric capability still remains to be implemented.

²³ Note: This is significant in Florida in that port tenants individually bear security plan responsibility under USCG administration of Title 33 CFR, while ch. 311, F.S., holds each seaport's port authority responsible for security plan development and implementation.

²⁴ Federal Register, Vol. 68, No. 204, Wednesday, October 22, 2003, p. 60468.

²⁵ Presidential Executive Order 13132, "Federalism," August 4, 1999.

²⁶ The Security and Accountability for Every Port Act of 2006 (P.L. 109-347).

²⁷ The federal background check involves a name and fingerprint check through the federal National Crime Information Center (NCIC) database. Florida law also requires a fingerprint check. This check is conducted through the Florida Crime Information Center (FCIC) database and captures state offense information not always available in the federal system such as current outstanding warrant information. Further, FDLE has intelligence databases which include potential cargo theft suspects and potential gang members that are routinely searched during the seaport access check. Such local information is not available in the federal database.

While the TWIC card remained in development, Florida moved forward in parallel with a program that was designed with TWIC compatibility in mind. Section 311.125, F.S., mandated the establishment of a biometric credential known as the Florida Uniform Port Access Credential (FUPAC). Pilot development was completed and the system stood ready for implementation pending publication of TWIC standards. When the final TWIC standards were published the differences made TWIC and FUPAC compatibility difficult. Federal officials believed that the MTSA language specifically limited the Transportation Security Administration's (TSA) application of TWIC screening to terrorism related issues. Florida expressed a need for a broader screening application in order to carry on with its original focus on illicit drug trafficking, cargo theft, and money laundering. Credential disqualifying offense differences, differing criteria for granting waivers, and reluctance on the part of federal agencies to grant database access to screen applicants are chief among the factors causing TWIC and FUPAC to be considered incompatible. Ultimately the Legislature terminated the FUPAC credential program with the repeal of s. 311.125, F.S., in 2009.²⁸

Seaport administrators favor adoption of the TWIC with continued use of local issue access cards.

The 2009 Legislature authorized the Department of Law Enforcement to establish a pilot program at least three ports to develop a secure database system to support the Access Eligibility Reporting System pursuant to s. 311.12(5), F.S. The Access Eligibility Reporting System is required to include at a minimum:

A centralized, secure method of collecting and maintaining finger-prints, other bio-metric data, or other means of confirming the identity of persons authorized to enter a secure or restricted area of a seaport;

A methodology for receiving from and transmitting information to each seaport regarding a person's authority to enter a secure or restricted area of the seaport;

A means for receiving prompt notification from a seaport when a person's authorization to enter a secure or restricted area of a seaport has been suspended or revoked; and

A means to communicate to seaports when a person's authorization to enter a secure or restricted area of a seaport has been suspended or revoked.²⁹

None of this capability is currently available with the TWIC credential and evidence has surfaced recently of TWIC credential counterfeiting.³⁰

In 2008-2009, the Senate Committee on Military Affairs and Domestic Security reviewed the previously discussed legislative history and met with a representative sample of port officials, port tenants, seaport labor officials, federal officials, law enforcement representatives, and the Governor's Office of Drug Control. Seaport administrative officials' and tenant stakeholders' concerns revolve mainly around the cost of maintaining security at the ports. Seaport administrators concerns related to significant security operational costs which are mandated but are not funded through federal grants or state legislative appropriation. Tenants and labor officials are mainly concerned with the costs of access credentialing both in terms of actual

²⁸ Ch. 2009-171, L.O.F.

²⁹ Id.

³⁰ U.S. Immigration and Customs Enforcement Alert No 2009A-22, Counterfeit Transportation Worker Identification Credential (TWIC), March 20, 2009.

badge costs as well as lost productivity days while undergoing the access credential application process. Additional major concerns can be summarized as follows:

Seaports now provide security under a dual federal and state system. Seaport administrators expressed concern that regulation under s. 311.12, F.S., is burdensome, out of date, and redundant because federal programs are now much more effective than those in place prior to September 11, 2001; and

The Camber Report is almost 10 years old and is now out of date.³¹

The Committee's Interim Report³² suggested four possible options to determine whether Florida's seaport security system is now redundant. These options include:

Repeal s. 311.12, F.S.;

Commission a follow-up study to the Camber Report;

Examine and redefine Florida's role in seaport security oversight; or

Consider the recommendation of the Camber Report as supported by the Fifteenth Statewide Grand Jury and create a seaport regulatory agency to oversee seaport operations in general and seaport security in particular.

The report stated that repealing s. 311.12, F.S., would simplify security administration at Florida's seaports and result in cost savings to the ports. However, such action would cede the state's responsibility for security oversight of Florida's seaports to the federal government. Providing oversight to ensure the safety and security of such critical infrastructure, which so many Floridians depend upon for their livelihood and which is vital to the state's economy, would appear to be a fundamental function of state government.³³

Further, the CBP has created several programs aimed at interdicting weapons of mass destruction and other contraband smuggling. Among these programs are the "24-hour Rule" which requires carriers to furnish container cargo information 24 hours prior to loading in foreign ports, evaluation of cargo information prior to its arrival at U.S. ports in order to identify high-risk shipments, non-intrusive inspection technology, and the C-TPAT program which pre-qualifies shipping industry participants for expedited cargo handling after demonstrating a higher degree of security attainment. However, the GAO recently reported to Congress that the C-TPAT program has made improvements but CBP is unable to ensure that it is meeting its own standards or adequately assessing the effectiveness of the program.³⁴

Additionally, the GAO has raised concerns regarding USCG port inspections. The Office of Management and Budget, in 2007, rated the Coast Guard's Drug Interdiction Program as "Adequate." The rating of Adequate describes a program that "needs to set more ambitious goals, achieve better results, improve accountability or strengthen its management practices."³⁵

³¹ Florida SENATE INTERIM REPORT 2009-122, FLORIDA SEAPORT SECURITY (Oct. 2008).

³² Id.

³³ The Florida Constitution states in its Preamble: "We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, insure domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution."

³⁴ Government Accountability Office, "Supply Chain Security – U. S. Customs and Border Protection Has Enhanced Its Partnership with Import Trade Sectors but Challenges Remain in Verifying Security Practices," GAO-08-240, April, 2008.

³⁵ Office of Management and Budget website: www.whitehouse.gov/omb/expectmore/summary/10000012.2007.html. no longer available.

Currently the Department of Homeland Security's annual performance report for Fiscal Years 2007-2009 indicates that a new performance plan was in development for 2008 to assess the Coast Guard's ability to manage terror-related risk in the U.S. Maritime Domain to an acceptable level. An assessment of the Coast Guard's performance is not published in the report.³⁶

Florida National Guard Organizational Structure

Florida is one of 15 states that have undergone a restructuring of its Army National Guard Enhanced Infantry Brigade. The Enhanced Infantry Brigade is composed of approximately 3,500 soldiers and, until recently, has been commanded by an officer in the rank of Brigadier General. The new organizational structure replicates the active duty Army's Infantry Brigade Combat Team and will now be commanded by an officer with the rank of Colonel.

States such as Florida have been allowed to transfer the former Infantry Brigade General Officer position to the state's National Guard Joint Forces Headquarters as an additional Assistant Adjutant General Army position. With more than 10,000 Florida Army National Guard soldiers currently serving, authorization for two Army officers serving in the grade of Brigadier General is consistent with authorizations in other states with similar forces.

Florida National Guard Educational Dollars for Duty Program

Section 250.10(7) establishes the Educational Dollars for Duty Program for Guard members who enroll in an authorized course of study at a public or nonpublic institution of higher learning in the state which has been accredited by the Commission on Colleges of the Southern Association of Colleges and Schools

The Commission on Colleges of the Southern Association of Colleges and Schools is the recognized regional accrediting body in the eleven U. S. Southern states³⁷ for those institutions of higher education that award associate, baccalaureate, master's or doctoral degrees. Currently there are 75 public and private institutions in Florida accredited by the Commission.³⁸

Section 250.10 (8), F.S., authorizes the Department of Military Affairs, subject to appropriations, to pay the full cost of tuition and fees for FNG members taking required courses. Members are eligible for this benefit upon enlistment.

III. Effect of Proposed Changes:

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

- recognize that certain major military installations have a greater potential for experiencing compatibility and coordination issues than others;
- list the communities affected by military bases, which ss. 163.3175 and 163.3177(6)(a) apply to;

³⁶ Department of Homeland Security website at http://www.dhs.gov/xlibrary/assets/cfo_apr_fy2007.pdf, last viewed on April 16, 2010.

³⁷ The eleven Southern states are Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

³⁸ Commission on Colleges, Southern Association of Colleges and School website at <http://www.sacscoc.org/> last viewed on April 16, 2010.

- 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 a member of the Armed Forces of the United States and his or her spouse.

Section 4 amends s. 311.12, F.S, to:

- prohibit seaports from charging administrative fees for any access control credential in addition to the fee for the federal Transportation Worker Identification Credential (TWIC) – the seaport administering authority is responsible for the cost associated with administration and production of any access card, except the TWIC, and any attempt to pass on such administrative fees shall result in a civil fine of \$10,000;
- remove the requirement that workers at a public seaport must get state criminal history checks;
- delete the access eligibility reporting system;
- delete the minimum seaport security standards established in current Florida law; and
- delete the requirement that persons seeking access to restricted areas execute affidavits.

Section 5 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 CS 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 CS requires that the spouse submit 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 6 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 Florida National Guard's Educational Dollars for Duty program 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. The effect of this change will be to greatly expand the type of schools and institutions available to Guard members for professional and technical education beyond colleges and universities.

Section 7 provides an effective date of July 1, 2010.

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 CS 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 CS 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 CS 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.

Lessening costs on the ports would lessen the burden on port employees and potentially stimulate commerce by relieving burdensome regulatory measures.

Ports currently charge a new/initial issue credential fee of between \$50 and \$85 and an annual renewal fee of between \$25 and \$60 for a locally issued port access cards. Total five year costs to an individual range from between \$160 and \$300. Workers who are employed at multiple ports may pay a separate fee for each port where they are employed. This is in addition to the cost of a TWIC card for five years which costs the individual \$132.50 total. This bill will save each port worker hundreds of dollars depending on their individual employment conditions. The cost of administering local access cards will be borne by the issuing port authority.

C. **Government Sector Impact:**

None.

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.)

CS by Community Affairs on April 7, 2010:

The committee substitute specifies which local governments are associated with and affected by Florida's military bases. The CS authorizes commanding officers to request copies of variances and waivers from local governments that may affect the military installation. The CS 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 CS protects the homestead exemption of active military and their spouses and allows spouses to receive a temporary professional license if they are accompanying their active duty service member. The CS authorizes the Adjutant General to establish a second Assistant Adjutant General (Army) position and changes the body that accredits educational institutions authorized under the National Guard's Educational Dollars for Duty program.

Regarding Florida's public seaports, the CS:

- prohibits seaports from charging identity credential administrative fees in addition to the fee for the federal Transportation Worker Identification Credential (TWIC) – if a seaport attempts to pass through its administrative fees it can be charged a fine;
- removes the requirement that workers at a public seaport must get state criminal history checks;
- deletes the access eligibility reporting system;
- deletes the minimum seaport security standards established in current Florida law; and

- deletes the requirement that persons seeking access to restricted areas execute affidavits.
- B. Amendments:
- None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
