

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/HB 977 (CS/CS/SB 922)	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Appropriations Committee; Economic Affairs Committee; Nelson; and others (Criminal Justice; Military Affairs, Space, and Domestic Security; Bennett; and others)	117 Y's	0 N's
COMPANION BILLS:	CS/CS/SB 922	GOVERNOR'S ACTION:	Pending

SUMMARY ANALYSIS

CS/CS/HB 977 passed the House on March 7, 2012, as CS/CS/SB 922, as amended. The Senate concurred in the House amendment to the Senate Bill, and passed the bill as amended on March 8, 2012. The bill includes CS/HB 45, CS/CS/HB 117, HB 221, HB 7075, HB 7113, and SB 276. CS/CS/SB 922 includes elements of other bills that were listed as companion measures. Please see MyFloridaHouse.gov or Leagis/Bill Navigator for an additional listing. CS/CS/SB 922 addresses military support as follows:

Encroachment: The bill clarifies provisions relating to military installation commanders' advisory comments on land use changes. In addition, the bill requires advisory comments to be supported and accompanied by appropriate data and analyses.

Property Tax Exemption for Deployed Servicemembers: The bill makes changes to the designated operations for which deployed servicemembers may qualify for an ad valorem tax exemption. It also provides an exception to the March 1 application deadline in s. 196.173(5), F.S., for 2012 only.

Florida Veterans' Hall of Fame Council: The bill creates the Florida Veterans' Hall of Fame Council to serve as an advisory body tasked with accepting nominations of persons to be considered for induction into the Hall of Fame.

Grants for Military Base Retention: The bill streamlines the grant programs and revises legislative intent for the programs to include the Legislature's interest in supporting and sustaining military installations throughout the state.

Military Support Organizations: The bill repeals provisions relating to the Florida Council on Military Base and Mission Support (Council) and transfers the powers, duties, and functions of the Council to the Florida Defense Support Task Force (Task Force). The bill also clarifies legislative intent regarding the Task Force's mission to preserve and protect military installations throughout the state and removes obsolete provisions relating to the reporting requirements.

Public Records and Public Meetings Exemptions: The bill transfers existing exemptions of the Council to the Task Force for records and discussions of the strengths and weaknesses of the state's military bases and strategies that are formulated to protect those bases during a base realignment and closure. The sunset date for the exemption remains October 2, 2014.

Florida Veteran Business Enterprise Opportunity Act: The bill expands existing vendor preference for service-disabled veteran business enterprises to include wartime veterans and veterans of a period of war. The bill revises application and documentation requirements to qualify for the program.

Special Use License Plates: The bill authorizes the Department of Highway Safety and Motor Vehicles to issue a special use license plate for a recipient of the Combat Infantry Badge, as well as Vietnam War veterans and Korean Conflict veterans. The bill also creates new special use license plates for recipients of the Silver Star, Distinguished Service Cross, Navy Cross, and Air Force Cross; in addition, it provides that upon application and proof of qualifications, the department shall issue these plates without payment of the license tax imposed by s. 320.08, F.S.

Purple Heart Day: The bill designates August 7 of each year as “Purple Heart Day.”

T. Patt Maney Veterans’ Treatment Intervention Act: The bill authorizes the chief judge of each judicial circuit to establish a Military Veterans and Servicemembers Court Program (Program) for veterans and servicemembers who are convicted of a criminal offense and who suffer from a mental illness, traumatic brain injury (TBI), substance abuse disorder, or psychological problem as a result of their military service. Under the Program, a judge may sentence such veterans and servicemembers in accordance with ch. 921, F.S., and through services tailored to meet the individual needs of the participant. The bill includes requirements for entry into the Program. The bill also authorizes a court to impose a condition of supervision requiring probationers or community controllees whose crime was committed on or after July 1, 2012, and who is a veteran or servicemember, who suffers from a military service-related mental illness, TBI, substance abuse disorder, or psychological problem to participate in a treatment program capable of treating the offender. The bill requires preference for certain treatment programs. Finally, the bill adds both felony and misdemeanor pre-trial intervention programs as eligible treatment programs for veterans and servicemembers.

Postsecondary Education Course Registration for Veterans: The bill requires institutions within the Florida College System and the State University System that offer priority course registration for a segment of the student population (or upon the implementation of such a policy), to provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits. It provides that the spouse or dependent children of the veteran to whom the GI Bill educational benefits have been transferred would also be granted priority course registration, and that qualified GI Bill users will be eligible for priority registration until the expiration of the GI Bill educational benefits. The bill also encourages independent postsecondary educational institutions to offer similar priority course registration.

Road Designations: The bill makes 11 legislative designations of transportation facilities for honorary or memorial purposes. It also directs the Department of Transportation to erect suitable markers for each of the designations.

Other Changes: The bill amends the definition of the term “exceptional meritorious service” for the Governor’s Medal of Merit. It also amends additional sections of statute to make conforming changes.

There are various provisions of the bill that will have an indeterminate but likely insignificant fiscal impact. Please see the Fiscal Analysis and Economic Impact Statement for details relating to the bill’s fiscal impact.

Subject to the Governor’s veto powers, the bill has an effective date of July 1, 2012, unless otherwise specified.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Governor's Medal of Merit (Section 1)

Present Situation

Chapter 2004-228, LOF, created the "Governor's Medal of Merit"¹ which could be presented to:

- Any legal resident of this state who has rendered exceptional meritorious service to the citizens of this state;
- Any legal resident of this state who is serving under honorable conditions on active duty as a member of the United States Armed Forces, the Florida National Guard, or the United States Reserve Forces and has rendered exceptional meritorious service to the citizens of this state while on active duty; or
- Any legal resident of this state who has been honorably discharged from active duty as a member of the United States Armed Forces, the Florida National Guard, or the United States Reserve Forces and, while on active duty, rendered exceptional meritorious service to the citizens of this state.

The term "exceptional meritorious service" means acts of bravery above and beyond the level of duty normally required by that person's respective military or civilian position.

Effect of Changes

The words "of bravery" are removed from the definition of the term "exceptional meritorious service".

The effective date of this section of the bill is July 1, 2012.

Growth Management - Military Base Commander Comments (Section 2)

Present Situation

The Legislature has found that incompatible development of land close to military installations can adversely affect the ability of the installation to carry out its mission.² Such development can also threaten public safety if accidents are to occur near the military installation and may also affect the economic vitality of a community when military operations or missions must be relocated because of urban encroachment.³ Based on these findings, the Legislature established s. 163.3175, F.S., to encourage compatible land use between local governments and military installations, help prevent incompatible encroachment, and facilitate the continued presence of military installations in this state. Further, the Legislature in 2011 passed the Community Planning Act,⁴ which recognized the military as an important part of the traditional economic base of Florida.⁵

In an effort to encourage cooperation between local governments and the military and facilitate the exchange of information, the local government is required to include a representative of the military installation as an *ex officio*, nonvoting member of the affected local government's land planning or zoning board.⁶ Section 163.3175, F.S., also requires local governments to provide information to the

¹ Section 14.34, F.S.

² Section 163.3175, F.S.

³ *Id.*

⁴ Chapter 2011-139, L.O.F.

⁵ *See* s. 163.3161, F.S.

⁶Section 163.3175(8), F.S.

commanding officer of an affected military installation relating to any proposed changes to the local comprehensive plan or proposed changes to the local land development regulations, which if approved, would affect the intensity, density, or use of land adjacent to or in close proximity to the military installation. If the commanding officer requests, the local government must also transmit copies of applications the local government receives for development orders requesting a variance or waiver from height or lighting restrictions or noise attenuation reduction requirements within the military zone of influence defined in the local comprehensive plan.⁷ Once these proposed changes are transmitted to the military installation, the local government must provide an opportunity for the commanding officer or his or her designee to review and comment on the proposed changes.⁸

The comments on the proposed changes may include factors identified in s. 163.3175(5), F.S., including whether the proposed changes will be incompatible with certain safety and noise standards,⁹ whether the changes are incompatible with the findings of a Joint Land Use Study (JLUS) for the area, and whether the military installation's mission will be adversely affected by the proposed changes being made by the local government. The commanding officer's comments, the underlying studies, and reports are not intended to be binding on the local government¹⁰ but instead advisory, for the local government to take into consideration when evaluating proposed changes.¹¹ Section 163.3175(6), F.S., was amended in 2011 to emphasize the importance of private property rights and to clarify that the local government when considering comments from a military installation must be sensitive to private property rights and not be unduly restrictive on those rights.

A local government's future land use plan and plan amendments are required to be based upon surveys, studies, and data regarding the area. Among other factors, the future land use plan is to include information relating to the compatibility of uses on lands adjacent to or closely proximate to military installations, if applicable.¹² The future land use plan element must also include criteria to be used to achieve the compatibility of lands adjacent or closely proximate to military installations.¹³ The local government in establishing the criteria within the future land use plan element must consider the factors identified in s. 163.3175(5), F.S., described above.

When a proposed comprehensive plan or plan amendment affects a major military installation in Florida,¹⁴ s. 163.3184(1)(c), F.S., defines the commanding officer of an affected military installation as a reviewing agency.¹⁵ This allows the commanding officer of the military installation to submit comments

⁷ Section 163.3175(4), F.S.

⁸ *Id.*

⁹ Comments provided may include whether the proposed changes are compatible with the Air Installation Compatible Use Zone (AICUZ) adopted by the military installation that has an airfield and whether the proposed changes are compatible with the Installation Environmental Noise Management Program (IENMP) of the U.S. Army.

¹⁰ See s. 163.3175(5), F.S.

¹¹ See s. 163.3175(6), F.S.

¹² Section 163.3177(6)(a)2.f., F.S.

¹³ Section 163.3175(9), F.S., provides that if the local government does not adopt criteria and address compatibility of lands adjacent to or closely proximate to existing military installations in its future land use plan element by June 30, 2012, the local government, military installation, state land planning agency, and other parties identified by the regional planning Council, including but not limited to private landowner representatives must enter into mediation. If by December 31, 2013, the local government comprehensive plan does not contain criteria, the state land planning agency may notify the Administration Commission, which may impose sanctions on the local government. Local governments that adopted criteria in 2004 found to be in compliance to address military installation compatibility requirements are exempt until required to update the comprehensive plan during the evaluation and appraisal review pursuant to s. 163.3191, F.S.

¹⁴ Major military installations that due to their mission and activities have a greater potential for experiencing compatibility and coordination issues than others are specifically listed in s. 163.3175(2), F.S.

¹⁵ (c) "Reviewing agencies" means:

1. The state land planning agency;
2. The appropriate regional planning Council;
3. The appropriate water management district;
4. The Department of Environmental Protection;
5. The Department of State;

on the proposed plan or plan amendment to the local government at the same time as other reviewing agencies. Comments from the military installation on a proposed comprehensive plan or comprehensive plan amendment are to be provided in accordance with the guidelines set in s. 163.3175, F.S.,¹⁶ as described above. Since the commanding officer of an affected military installation is defined as one of the “reviewing agencies”, the comments submitted by the military installation regarding proposed comprehensive plan amendments are to be considered and weighed by the local government similar to comments from other reviewing agencies representing interests that may be affected by proposed changes such as the environment, public schools, or transportation. Along with reviewing agency comments, the local government also takes into consideration public testimony and other information and data at its disposal.

Effect of Changes

The bill clarifies that commanding officer comments on proposed changes that may have an impact on the mission of the military installation are advisory to the local government, and provides that the advisory comments must be based on appropriate data and analyses provided with the comments. Further, the local government must consider the comments, underlying studies, and reports in the same manner as comments received by other reviewing agencies pursuant to s. 163.3184, F.S.¹⁷

The bill also specifies that the local government must take into consideration any comments and accompanying data and analyses provided by the commanding officer or his or her designee as they relate to the strategic mission of the base, public safety, and the economic vitality associated with the base’s operations,¹⁸ while also respecting private property rights and not being unduly restrictive on those rights. Although the bill makes changes to the language in s. 163.3175(5) and (6), F.S., in an attempt to clarify, the original intent and meaning remains unchanged.

The effective date of this section of the bill is July 1, 2012.

Property Tax Exemption for Deployed Servicemembers (Section 3 – 4)

Present Situation

Section 196.173, F.S., provides an additional ad valorem tax exemption for homestead property owned by a person who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard deployed outside of the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature.

Eligible Military Operations

The exemption is available to servicemembers who were deployed during the previous calendar year on active duty outside the continental United State, Alaska, or Hawaii in support of:

- Operation Enduring Freedom, which began on October 7, 2001;

6. The Department of Transportation;

7. In the case of plan amendments relating to public schools, the Department of Education;

8. In the case of plans or plan amendments that affect a military installation listed in s. [163.3175](#), the commanding officer of the affected military installation;

9. In the case of county plans and plan amendments, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services; and

10. In the case of municipal plans and plan amendments, the county in which the municipality is located.

¹⁶ See s. 163.3184(3)(b)3.d., F.S.

¹⁷ Section 163.3184(1)(c), defines “reviewing agencies”, which includes in the case of plans or plan amendments that affect a military installation, the commanding officer of the affected military installation. S. 163.3184(3)(b)2., F.S., provides in part that comments from reviewing agencies, if not resolved, may result in a challenge by the state land planning agency to the plan amendment.

¹⁸ These issues are consistent with the legislative findings in s. 163.3175(1), F.S.

- Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010; or
- Operation New Dawn, which began September 1, 2010.

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year. To the extent possible, the report must include:

- the official and common names of the military operations;
- the general location and purpose of each military operation;
- the number of servicemembers deployed to each military operation;
- the number of servicemembers deployed to each military operation who were based in this state at the time of deployment, including the number by county of residence or military base, if known;
- the date each military operation commenced;
- the date each military operation terminated, unless the operation is ongoing; and
- any other relevant information.

Amount of Exemption

The amount of the exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.

Exemption Application

A servicemember who seeks to claim the additional tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment. The application must be made on a form prescribed by the Department of Revenue and furnished by the property appraiser. The servicemember must provide:

- proof that the servicemember participated in a qualifying deployment;
- the dates of the qualifying deployment; and
- other information necessary to verify eligibility for and the amount of the exemption.

In the event a servicemember is unable to apply for the deployed servicemember exemption for reasons such as deployment, a spouse who also owns the homestead as entireties or jointly with the right of survivorship, an individual with the servicemember's power of attorney, or the personal representative of the servicemember's estate may apply for the exemption on the servicemember's behalf.

Exemption Approval or Denial

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application. If a servicemember's application for the exemption is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board along with the procedures for filing such appeal.

Definition of “Servicemember”

The term “servicemember” as used in this section, is defined to mean “a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.”

Effect of Changes

The Department of Military Affairs has submitted the report required by s. 196.173(3), F.S., described above and providing the names, dates, locations and general purposes of all known and unclassified military operations that occurred outside the United States in calendar year 2011.¹⁹

The report identified three differences from the designated operations currently identified in s. 196.173(2), F.S.:

- Operation Noble Eagle, which began on September 15, 2001, and is ongoing, is not currently identified in statute;
- Operation New Dawn, which began September 1, 2010, and is currently identified in statute, ended on December 15, 2011; and
- Operation Odyssey Dawn, which began March 19, 2011, and ended on October 31, 2011, is not currently identified in statute.

The bill amends 196.173(3), F.S., to recognize these changes in statute.

The bill provides an exception to the March 1 application deadline in s. 196.173(5), F.S., for 2012 only, by establishing June 1, 2012, as the deadline for an eligible servicemember to file a claim for an additional tax exemption for qualifying deployment during the 2011 calendar year. Any applicant who fails to meet the June 1 deadline must subsequently submit an application to the property appraiser on or before the 25th day following the mailing by the property appraiser of the notices required under s.194.011(1), F.S. Upon receipt of the application, the property appraiser may grant the tax exemption if the property appraiser determines the applicant failed to meet the application deadline due to extenuating circumstances.

If the property appraiser determines that extenuating circumstances did not prevent an applicant from meeting the deadline and denies the application, the applicant may file a petition with the value adjustment board requesting that the exemption be granted. No filing fee is due for this petition. The value adjustment board may grant the exemption for the current year if the board determines that extenuating circumstances existed.

Section 3 is effective upon becoming law and first applies to ad valorem tax rolls in 2012.

Section 4 is effective upon becoming law.

Florida Veterans’ Hall of Fame (Section 5)

Present Situation

The Florida Veterans Hall of Fame (Hall of Fame) was established during the 2011 Legislative Session²⁰ in an effort to recognize and honor military veterans who have made a significant contribution to the State of Florida through their works and lives during or after military service.²¹

¹⁹ On file with the Finance and Tax Committee.

²⁰ Chapter 2011-168, L.O.F.

²¹ Section 265.003, F.S.

The Hall of Fame is administered by the Florida Department of Veterans' Affairs (FDVA) and is located on the Plaza Level of the Capitol Building along the northeast front wall. Current law requires FDVA to annually accept nominations for persons to be considered for the Hall of Fame and transmit its recommendations to the Governor and the Cabinet, who will select the nominees to be inducted. Each veteran selected will have his or her name placed on a plaque in the Hall of Fame.

The FDVA must give preference to veterans who:

- were born in Florida or adopted Florida as their home state or base of operation; and,
- have made a significant contribution to Florida in civic, business, public service, or other pursuits.

The FDVA is further authorized to establish selection criteria, time periods for acceptance of nominations, the process for selecting nominees, and a formal induction ceremony to coincide with the annual commemoration of Veterans' Day. Initial inductions to the Hall of Fame are tentatively expected to take place on Veterans' Day 2012.

According to the general law,²² the Hall of Fame is to be administered by FDVA without the appropriation of state funds. When the Hall of Fame was created in 2011, the Florida Veterans' Foundation, a 501(c)(3) organization and FDVA's Direct Support Organization authorized in s. 292.055, F.S., indicated it would be responsible for the initial and ongoing operation and maintenance costs of the Hall of Fame.

Effect of Changes

The bill establishes the Florida Veterans' Hall of Fame Council (council) within FDVA to serve as the advisory body tasked with accepting nominations of persons to be considered for induction into the Hall of Fame.

The council is to consist of 7 members who are all honorably discharged veterans, at least 4 of whom are members of a congressionally chartered veterans service organization. The Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, the President of the Senate, the Speaker of the House of Representatives, and the executive director of the FDVA each appoint one member to the council.

Council members serve 4-year terms with the exception of the initial appointments, for which appointees serve either a 2-year or 4-year term to ensure staggered terms among the council members. The members must annually elect a chair and will meet at the call of the chair, at the request of the executive director of the FDVA, or at such times as may be prescribed by the council.

The council takes the place of FDVA in annually accepting nominations for persons to be considered for the Hall of Fame. After acceptance of nominations, the council must transmit a list of 20 nominees to FDVA for submission to the Governor and Cabinet, who will select individuals from the list of nominees to be inducted. The council also assumes FDVA's current statutory authority to establish selection criteria, time periods for acceptance of nominations, the process for selecting nominees, and a formal induction ceremony to coincide with the annual commemoration of Veterans' Day.

Members of the Council are prohibited from receiving compensation or honorarium for their services. Members may be reimbursed for travel expenses as provided in s. 112.061, F.S., however, state funds are prohibited from being used for this purpose.

The effective date of this section of the bill is July 1, 2012.

²² Section 265.003(2)(a), F.S.

Grants for Military Base Retention (Sections 6 – 7)

Present Situation

Section 288.980, F.S., establishes grant programs designed to aid defense-dependent communities throughout the state. The legislative intent of this section, created in 1994 after the series of base closures from the 1993 BRAC round, focuses on aiding these communities transition from a defense economy to a nondefense economy in light of the federal BRAC process.

It contains provisions creating the Florida Economic Reinvestment Initiative, which is comprised of two distinct grant programs, the Florida Defense Planning Grant Program and the Florida Defense Implementation Grant Program. It also creates the Florida Military Installation Reuse Planning and Marketing Grant Program, the Defense Infrastructure Grant Program, the Defense Related Business Adjustment Program, and the Retention of Military Installations Program.

In addition, it authorizes the Department of Economic Opportunity (DEO) to award nonfederal matching funds specifically for the construction, maintenance, and analysis of a Florida defense workforce database. This database is to be a registry of worker skills that can be used to match the worker needs of companies that are relocating to Florida or to assist workers in relocating to other areas within Florida where similar or related employment is available. This database has not been created.

The Florida Defense Alliance serves as the overall advisory body for defense-related activity for Enterprise Florida, Inc. In addition, the Florida Defense Alliance may receive funding from appropriations made for that purpose to DEO.

Many of the grant programs have not been funded. Recent grants have focused on military base retention, which is inconsistent with the statute's emphasis on response to base closure.

Effect of Changes

The bill revises the legislative intent found in s. 288.980, F.S. While it retains the intent to encourage communities to initiate a coordinated program of response and plan of action in advance of future actions of the federal government relating to realignments and closures, it also recognizes the need for communities to develop and implement strategies to preserve and protect military installations. It further recognizes that the state needs to coordinate all efforts that can support military installations through the state.

Many of the changes in this section are to update the statutes to reflect how the grants have been funded and utilized.

The bill statutorily creates the Military Base Protection Program, and authorizes that funds appropriated to the program may be used to address emergent needs relating to mission sustainment and base retention. In addition, these funds may be used to match federal funds. DEO is directed to coordinate and implement this program.

The bill authorizes DEO to award grants on a competitive basis to support activities related to the Florida Defense Reinvestment Grant Program (DRG) and the Florida Defense Infrastructure Grant Program (DIG).

The DRG program is established with two purposes: to work with defense-dependent communities to develop and implement strategies to help the communities support the missions of military installations and to help communities transition from a defense economy to a nondefense economy. Eligible applicants include defense-dependent counties and cities, and local economic development councils located within such communities. DEO is directed to administer the program. Grant awards under the DRG program may be provided to support community-based activities that: protect existing military

installations; diversify the economy of a defense-dependent community; or develop plans for the reuse of closed or realigned military installations, including any plans necessary for infrastructure improvements needed to facilitate reuse and related marketing activities.

The bill clarifies that grants under the DIG program are prohibited from being used to fund on-base military construction projects.

The bill repeals the Florida Economic Reinvestment Initiative, which consisted of the Florida Defense Planning Grant Program and the Florida Defense Implementation Grant Program. It repeals the Florida Military Installation Reuse Planning and Marketing Grant Program; however, the DRG program incorporates much of this program. In addition, it repeals the Defense Related Business Adjustment Program. Finally, it repeals the Retention of Military Installations Program.

The bill maintains the authorization for DEO to award funds for a Florida defense workforce database. It also retains limitations that payment for administrative expenses are limited to no more than ten percent of any grants issued. DEO is directed to establish guidelines to implement and carry out the purpose and intent of the programs.

The effective date of these sections of the bill is July 1, 2012.

Florida's Military Support Organizations (Sections 8, 9 and 11)

Present Situation

Florida Council on Military Base and Mission Support

In 2009, the Legislature established the Florida Council on Military Base and Mission Support (Council).²³ The mission of the Council is to support and strengthen all DoD missions and bases located in Florida; know the capabilities of Florida's military installations in order to support future military growth opportunities; and support local community efforts relating to mission support of a military base by acting as a liaison between the local communities and the Legislature.

The Council is composed of nine members. The President of the Senate and the Speaker of the House each appoint three members: a member of their respective Legislative body, a representative from a community-based defense support organization, and a retired military general or flag rank officer or an executive officer of a defense contracting firm doing significant business in Florida. The Governor appoints the three remaining Council members: the director or designee of DEO, a board member of Enterprise Florida, Inc., and one at-large member. Legislative members of the Council serve a term of two-years commencing on July 1 of each odd year. The remaining members are appointed to four-year terms with vacancies filled for any unexpired portion in the same manner as the initial appointment. Members of the Council elect a chair and vice-chair. The chair and vice-chair serve terms of two years and are eligible to succeed themselves.

The Secretary of Environmental Protection, the Secretary of Transportation, the Adjutant General of Florida, and the Executive Director of Veterans' Affairs are required to attend all Council meetings and provide assistance, information, and support upon request. Each of the officials is permitted to send a designee in his or her stead.

The Council is directed to establish four workgroups: the Intrastate Activities Workgroup, Federal Activities Workgroup, Competitive Advantages Workgroup, and the Public Communications Workgroup. Each of these workgroups is tasked with duties defined in s. 288.984(3), F.S. These duties include collecting information and conducting analyses, developing ongoing dialogue with DoD officials,

²³ Section 289.984, F.S.

working to leverage Florida's competitive advantage with respect to BRAC activities, and increasing public awareness of BRAC activities and public investment in preserving the state's military bases.

The Council is required to provide an annual report to the Legislature and the Governor, summarizing the current status of the state's military bases, the Council's activities, and any recommendations for legislative or executive action, by January 1 each year.

DEO is directed to provide administrative support to the Council. The Legislature has not appropriated funds for use by the Council.

Florida Defense Support Task Force

In 2011, the Legislature established the Florida Defense Support Task Force (Task Force).²⁴ The mission of the Task Force is to make recommendations to prepare the state to effectively compete in any federal base realignment and closure action; support the state's position in research and development related to or arising out of military missions and contracting; and improve the state's military-friendly environment for service members, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.

The Task Force is comprised of the Governor or his or her designee and twelve members comprised of four members appointed by the Governor, President of the Senate, and Speaker of the House, respectively. Task Force members represent defense-related industries or communities that host military bases and installations. With the exception of Legislative members, Task Force members serve for a term of four years, with the first term ending July 1, 2015. Vacancies are to be filled for the remainder of the unexpired term in the same manner as the initial appointment. Legislative members of the Task Force serve until the expiration of their Legislative term. When the Governor participates in Task Force activities, he or she serves as the chair; however, the Governor's designee does not serve as the chair in his or her absence. The President of the Senate and the Speaker of the House each designates one of their appointees to serve as chair, with the President of the Senate's appointee serving as the initial chair. The chair shall rotate between the President of the Senate's appointee and the Speaker of the House's appointee each July 1.

The director of the Office of Tourism, Trade and Economic Development (OTTED),²⁵ or his or her designee, serves as the ex officio, nonvoting executive director of the Task Force.

The Task Force is required to submit a progress report and work plan for the remainder of the Fiscal Year 2011 – 2012 to the Governor, President of the Senate, and Speaker of the House by February 1, 2012. After that, the Task Force is required to submit an annual report every February 1.

OTTED is to contract with the Task Force for the expenditure of appropriated funds which can be used for economic and product research and development, joint planning with host communities to accommodate military missions and prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing a smooth transition for large numbers of additional military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers. The Task Force is authorized to spend up to \$200,000 of funds appropriated for staffing and administrative expenses, including travel and per diem costs incurred by Task Force members who are not otherwise eligible for state reimbursement. OTTED was appropriated \$5 million in nonrecurring General Revenue for the Task Force in Fiscal Year 2011 – 2012.

²⁴ Section 288.987, F.S.

²⁵ Section 4, ch. 2011-142, L.O.F., transferred all of the powers, duties, and functions of OTTED to DEO.

Effect of Changes

The bill repeals s. 288.984, F.S., relating to the Council. It transfers the powers, duties, functions, records, personnel, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds of the Council to the Task Force.

The bill amends s. 288.987, F.S., to clarify legislative intent regarding the Task Force's mission to preserve and protect military installations throughout the state. The bill also removes obsolete provisions relating to the reporting requirements.

It also amends ss. 163.3175 and 288.987, F.S., to make conforming changes.

These sections of the bill are effective upon becoming law.

Public Records and Meetings Exemption (Section 10)

Present Situation

General Policies

Article I, s. 24(a) of the Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.²⁶

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act²⁷ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

Exemption for the Florida Council on Military Base and Mission Support

In 2009, the Legislature created a public records and meetings exemption for certain activities of the Council.²⁸ Council records and discussions of the strengths and weaknesses of the state's military bases and strategies that are formulated to protect those bases during a base realignment and closure process are covered under the exemption.

²⁶ Article I, s. 24(c) of the Florida Constitution.

²⁷ Section 119.15, F.S.

²⁸ Section 288.985, F.S.

General law provides a public disclosure exemption for the following records held by the Council including that portion of a record relating to:

- strengths and weaknesses of military installations or missions in this state relative to BRAC realignment and closure selection criteria;
- strengths and weaknesses of military installations or missions in other states or territories relative to BRAC realignment and closure selection criteria; and
- the state's strategies to retain, relocate, or realign its military bases during any BRAC realignment or closure process.

Council meetings or portions thereof where exempt records are presented or discussed are exempt from public disclosure. Any records generated during such meetings, including but not limited to minutes, tape recordings, videotapes, digital recordings, transcriptions, or notes, are exempted.

Any person who willfully and knowingly violates the exemption commits a misdemeanor of the first degree punishable as provided in ss. 775.082 or 775.083, F.S.

The section of statute relating to the public records and meetings exemption is subject to the Open Government Sunset Review Act pursuant to s. 119.15, F.S. The section shall stand repealed on October 2, 2014, unless reviewed and reenacted by the Legislature.

When it created the exemption for the Council, the Legislature provided a finding of public necessity for the meetings and records disclosure exemption. This finding stated that military bases enhance the national defense and the state's economic development, and given the economic contribution of military installations and defense-related industry, the state has a substantial financial interest in retaining its military bases. Consequently, protecting critical information such as strengths, weaknesses, or strategies relating to locating or retaining military bases is important if Florida is to effectively compete against other states and territories whose records are not open to the public. The state's ability to protect military bases and missions from realignment or closure or to attract new bases will be impaired if Council meetings, portions of thereof, and related records are not exempted.

Effect of Changes

The bill transfers the exemption from public records and public meetings requirements found in s. 288.985, F.S., from the Council to the Task Force. The sunset date for the exemption remains October 2, 2014.

This section of the bill is effective upon becoming law.

Florida Veteran Business Enterprise Opportunity Act (Section 12)

Present Situation

Florida Service-Disabled Veteran Business Enterprise Opportunity Act

The intent of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act²⁹ (act) is to

[R]ectify the economic disadvantage of service-disabled veterans, who are statistically the least likely to be self-employed when compared to the veteran population as a whole and who have made extraordinary sacrifices on behalf of the nation, the state, and the public, by providing opportunities for service-disabled veteran business enterprises as set forth in this section.³⁰

²⁹ See s. 295.187, F.S.

³⁰ Section 295.187(2), F.S.

Current law provides that a “service-disabled veteran” is a veteran who is a permanent Florida resident with a service-connected disability as determined by the United States Department of Veterans Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.³¹

In order for a service-disabled veteran business enterprise (SDVBE) to be certified, it must be an independently owned and operated business that:

- employs 200 or fewer permanent full-time employees.
- together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments.
- is organized to engage in commercial transactions.
- is domiciled in this state.
- is at least 51 percent owned by one or more service-disabled veterans.
- is managed and controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.³²

Florida law provides for a certification process that is administered by the Department of Management Services (DMS), in coordination with the Florida Department of Veterans’ Affairs.³³ The certification process requires applicants to submit documentation³⁴ demonstrating that the business meets the requirements found in s. 295.187(3)(c), F.S. Certification is renewed biennially and may be revoked for one year if the SDVBE fails to inform DMS within 30 days of a change in circumstances that renders the business ineligible for certification.³⁵

Currently, there are 222 certified service-disabled veteran business enterprises in Florida.³⁶

Service-disabled veteran-owned businesses that are certified through DMS are eligible for benefits such as:

- first tier referrals to state agencies for contract opportunities;
- business development guidance from established corporations;
- participation at regional workshops, seminars, and corporate roundtables; and
- inclusion in an exclusive listing of state-certified minority business enterprises in an online directory.³⁷

Vendor Preference

Current law provides that a state agency, when considering two or more bids, proposals, or replies for the procurement of commodities or contractual services, and one is a certified SDVBE, the agency must award the procurement to the SDVBE if all relevant considerations³⁸ are equal.³⁹ However, if a certified SDVBE and one or more SDVBE or businesses eligible for another statutory vendor

³¹ Section 295.187(3)(b), F.S.

³² Section 295.187(3)(c)1.-6., F.S.

³³ See s. 295.187(5) – (7), F.S.

³⁴ See 60A-9.005, F.A.C.

³⁵ See s. 295.187(5)(d) and (e), F.S.

³⁶ Information provided by telephone on 1/19/12, by Mr. Thad Fortune, Certification Administrator (Senior Manager), Office of Supplier Diversity, DMS.

³⁷ See Office of Supplier Diversity Annual Report for Fiscal Year 2009-10. Available at:

http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/publications/annual_reports (last visited 1/19/12).

³⁸ Relevant considerations include price, quality, and service. See s. 295.187(4)(a), F.S.

³⁹ Section 295.187(4)(a), F.S.

preference, such as a minority business enterprise⁴⁰, submit bids or proposals that are equal with respect to all relevant considerations, the state agency must award the contract or proposal to the business having the smallest net worth.⁴¹

Effect of Changes

Florida Veteran Business Enterprise Opportunity Act

The bill provides that the act may be cited as the “Florida Veteran Business Enterprise Opportunity Act.” It also expands the intent of the act to include the recognition of wartime veterans and veterans of a period of war for their sacrifices.

The bill expands the Florida Veteran Business Opportunity Act to include “wartime veterans.” It defines the term “wartime veteran” as:

- a wartime veteran as defined in s. 1.01(14), F.S.⁴²; or
- a veteran of a period of war, as used in 38 U.S.C. 1521, who served in active military, naval, or air service:
 - for 90 days or more during a period of war;
 - during a period of war and was discharged or released from such service for a service-connected disability;
 - for a period of 90 consecutive days or more and such period began or ended during a period of war; or
 - for an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

The bill requires wartime veteran applicants to provide documentation of wartime service from the United States Department of Veterans’ Affairs or the United States Department of Defense during the veteran business enterprise certification process. The Department of Veterans’ Affairs is tasked with assisting DMS in the expansion of the certification process.

Vendor Preference

The bill expands the vendor preference for service-disabled veterans to include wartime veterans and veterans of a period of war whose businesses are certified as a veteran business enterprise by DMS.

The effective date of this section of the bill is July 1, 2012.

Special Use License Plates (Sections 13 – 14)

Present Situation

Motor vehicle license plates; issuance; annual license taxes

The Department of Highway Safety and Motor Vehicles (DHSMV) administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in ch. 320, F.S.

⁴⁰ Section 288.703, F.S., defines the term “minority business enterprise” to mean any small business which is organized to engage in commercial transactions, which is domiciled in Florida, and which is at least 51 percent owned by minority persons who are members of an insular group that is of a particular racial, ethnic, or gender makeup or national origin, which has been subjected historically to disparate treatment due to identification in and with that group.

⁴¹ Section 295.187(4)(b), F.S.

⁴² As defined in s. 1.01(14), F.S., the term “wartime veteran” means a veteran who has served in a campaign or expedition for which a campaign badge has been authorized or a veteran who has served during one of the following periods of wartime service: Spanish-American War, Mexican Border period, World War I, World War II, Korean Conflict, Vietnam Era, Persian Gulf War, Operation Enduring Freedom, or Operation Iraqi Freedom.

License plates are issued for a 10-year period and are replaced upon renewal at the end of the 10-year period.⁴³ The license plate fee for both an original issuance and replacement is \$28.00.⁴⁴ An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement.

Section 320.08, F.S., requires the payment of an annual license tax that varies by motor vehicle type and weight; for a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is \$30.50.

Current law provides for several types of license plates in addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public:

- **Standard plates:** The standard license plate currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.
- **Specialty license plates:** Specialty license plates are used to generate revenue for colleges, universities and other organizations. Organizations seeking to participate in the specialty plate program are required to make application with DHSMV, pay an application fee, and obtain authority from the Florida Legislature.⁴⁵ The recipient must pay applicable taxes pursuant to ss. 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution as provided in section 320.08056(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.⁴⁶
- **Personalized Prestige License Plates:** Personalized license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to seven characters) on a standard plate that must be approved by the DHSMV. The cost for a personalized prestige license plate (in addition to the applicable tax in s. 320.08, F.S.) is \$15, pursuant to s. 320.0805, F.S.
- **Special Use License Plates:** Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of ch. 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, U.S. Armed Forces, Pearl Harbor, Iraqi Freedom, and Enduring Freedom plates,⁴⁷ Disabled Veteran plates,⁴⁸ and Paralyzed Veterans of America plates.⁴⁹

Annually, the first \$100,000 of revenues from the sales of Special Use plates authorized under s. 320.089, F.S., are deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act.⁵⁰ Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

⁴³ Section 320.06, F.S.

⁴⁴ An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

⁴⁵ See generally s. 320.08056, F.S.

⁴⁶ The moratorium on new specialty license plates is created by s. 45, ch. 2008-176, L.O.F., as amended by s. 21, ch. 2010-223, L.O.F.

⁴⁷ Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.

⁴⁸ Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

⁴⁹ Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

⁵⁰ Section 320.089(1)(b), F.S.

Combat Infantryman Badge

The Combat Infantryman Badge is the United States Army combat service recognition decoration awarded to soldiers — enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6, 1941.⁵¹

Combat Infantryman Badge recipients must have met the following criteria to have been awarded this honor as provided by the Military Awards Army Regulation 600-8-22:

- be an infantryman satisfactorily performing infantry duties;
- assigned to an infantry unit during such time as the unit is engaged in active ground combat; and
- actively participate in such ground combat – campaign or battle credit alone is not sufficient for the award of the Combat Infantryman Badge.

Korean Conflict

World War II divided the Korean Peninsula at the 38th parallel. In 1950, communist North Korea invaded democratic South Korea. Military forces of the United States and other member states of the United Nations came to the aid of South Korea when the Soviet-supplied North Korean forces quickly overwhelmed the South Korean defenses. The Korean Conflict is characterized by General Douglas MacArthur's daring strategy of an amphibious landing at Inchon and pincer-movement to push back the North Koreans. This strategy was valiantly and successfully executed by American and allied forces in the face of almost certain defeat. After quickly recapturing Seoul, the South Korean capital, the conflict continued until an armistice was signed on July 27, 1953. The conflict was particularly notable for the conditions under which it was fought, including difficult terrain and brutal weather conditions.

Approximately 1.8 million U.S. servicemembers were deployed to the Korean theater of war, with 33,739 dying in battle and 103,284 suffering non-mortal wounds. There are almost 2.3 million living veterans from the Korean Conflict era, with 169,254 living in Florida.⁵² It is unknown how many of these living veterans were deployed to the Korean theater of war.

Vietnam War

The Geneva Accords dividing Vietnam into a communist north and democratic south were signed in July of 1954. The rationale developed by the Eisenhower Administration to explain its economic and military support of South Vietnam became known as the “domino theory.” Likening the countries of southeast Asia to a row of dominos, the President argued that if one country fell, it would trigger the fall of others.⁵³ Thus, the United States began to endorse and support South Vietnam's effort to defend against the communist North.

The U.S. initially supported South Vietnam in an advisory role but, by the mid-1960s, U.S. military forces were directly involved in combat operations against the North, in which over the course of the war, more than 3 million Americans were deployed to Southeast Asia.⁵⁴ American involvement in the war began to decline after the Paris Peace Accords were signed on January 27, 1973. The U.S. completed withdrawal of its ground troops from Vietnam on March 30, 1973, but thousands of U.S.

⁵¹ <http://www.army.mil/symbols/CombatBadges/infantry.html>.

⁵² *Fast Facts*, Florida Department of Veterans' Affairs, http://www.floridavets.org/information/FlaVetStats/stats/Florida_Veterans_--_Fast_Facts.pdf.

⁵³ *The War in Vietnam, 1954-1964*; <http://faculty.smu.edu/dsimon/Change-Viet.html>.

⁵⁴ *Statistics at a Glance*, Department of Veterans Affairs (as of 1/17/2012) and *America's Wars*, Department of Veterans Affairs (May 2010) available at: http://www1.va.gov/opa/publications/factsheets/fs_americas_wars.pdf.

support personnel remained in Vietnam. All remaining U.S. personnel were evacuated when Saigon fell on April 30, 1975.⁵⁵

Military involvement in Vietnam, and the neighboring countries of Laos and Cambodia, resulted in the deaths of 58,220 U.S. service members, 1,952 of whom were from Florida.⁵⁶ An additional 153,303 U.S. service members required hospital care as a result of wounds.⁵⁷ There are approximately 7.5 million surviving veterans of the Vietnam War era, with approximately 454,000 residing in Florida.⁵⁸

Medal of Honor: Special Use License Plate

The Medal of Honor is the highest military decoration awarded by the United States government, awarded to members of the United States Armed Forces who distinguish themselves through "conspicuous gallantry and intrepidity at the risk of his or her life above and beyond the call of duty while engaged in an action against an enemy of the United States."⁵⁹ The Medal of Honor is bestowed upon an individual by the passing of a Joint Resolution of Congress and is then personally presented to the recipient or, in the case of posthumous awards, to next of kin, by the President of the United States, on behalf of the Congress, representing and recognizing the gratitude of the American people.

Section 320.0893, F.S., provides that a resident of Florida who was awarded the Medal of Honor while serving as a member of the United States Armed Forces may be issued a license plate on which is stamped the words "Medal of Honor" followed by the serial number. Upon submission of the application and proof that the applicant meets the qualifications the plate is issued without payment of the license tax imposed by s. 320.08, F.S.

Distinguished Service Cross, Navy Cross, Air Force Cross

The Distinguished Service Cross is the second highest military decoration that can be awarded to a member of the United States Army for extreme gallantry and risk of life in actual combat with an armed enemy force.⁶⁰ Actions that merit the Distinguished Service Cross must be of such a high degree to be above those required for all other U.S. combat decorations but not meeting the criteria for the Medal of Honor.

The Navy Cross is the highest medal that can be awarded by the United States Department of the Navy⁶¹ and along with the Distinguished Service Cross (U.S. Army) and the Air Force Cross, the second highest award given for valor. It is awarded to members of the United States Navy, United States Marine Corps, and United States Coast Guard.

The Air Force Cross is the second highest military decoration that can be awarded to a member of the United States Air Force.⁶² The Air Force Cross is awarded for extraordinary heroism not justifying the award of the Medal of Honor. It may be awarded to any person who, while serving in any capacity with the U.S. Air Force, distinguishes him or herself by extraordinary heroism in combat.

⁵⁵ U.S. Congress, President, and Florida Legislature recognize May 7, 1975, as the end of the Vietnam War (for purpose of veteran affairs). Text at: <http://www.gpo.gov/fdsys/pkg/CFR-2005-title45-vol3/pdf/CFR-2005-title45-vol3-sec506-10.pdf>; 14 Fla. Prac., Elder Law § 14:5 (2010-11 ed.).

⁵⁶ <http://thewall-usa.com/summary.asp>.

⁵⁷ Anne Leland; Mari-Jana "M-J" Oboroceanu, American War and Military Operations: Casualties: Lists and Statistics, Congressional Research Service, <http://www.fas.org/spp/crs/natsec/RL32492.pdf> (February 26, 2010); <http://siadapp.dmdc.osd.mil/personnel/CASUALTY/castop.htm>.

⁵⁸ *Fast Facts*, Florida Dep't of Veterans' Affairs, <http://www.floridavets.org/>.

⁵⁹ 10 U.S.C. s. 3741.

⁶⁰ 10 U.S.C. s. 3742.

⁶¹ 10 U.S.C. s. 6242.

⁶² 10 U.S.C. s. 8742.

Silver Star Award

The Silver Star is the third-highest military decoration that can be awarded to a member of any branch of the United States armed forces for valor in the face of the enemy.⁶³ The Silver Star is awarded for gallantry in action against an enemy of the United States not justifying one of the two higher awards – the service crosses or the Medal of Honor.

Effect of Changes

The bill amends s. 320.089, F.S., to create a special use plate for recipients of the Combat Infantry Badge. Upon payment of the license tax for the vehicle as provided in s. 320.08, F.S., and proof of membership in the Combat Infantrymen's Association, Inc., or other proof of being a recipient of the Combat Infantry Badge, the applicant may receive a Special Use plate bearing the words "Combat Infantry Badge," followed by the serial number of the license plate.

The bill proposes to create a special use plate for Vietnam War Veterans. To be eligible for the plate, the veteran must show proof of active membership or former active duty deployment or service in Vietnam during United States military deployment in Indochina and must pay the applicable license tax for his or her vehicle. In lieu of the registration license number, the words "Vietnam War Veteran" will be stamped on the license plate, followed by the registration license number.

The bill proposes to create a special use plate for Korean Conflict Veterans. To be eligible for the plate, the veteran must show proof of active membership or former active duty deployment or service in Korea during United States military deployment in Korea and must pay the applicable license tax for his or her vehicle. In lieu of the registration license number, the words "Korean Conflict Veteran" will be stamped on the license plate, followed by the registration license number.

The bill provides that recipients of specific award medals: the Distinguished Service Cross, Navy Cross, Air Force Cross, and Silver Star may, upon application to DHSMV, receive a license plate with the name of the award, followed by the license plate serial number. In addition, the bill provides that upon application and proof of qualifications, DHSMV shall issue these plates without payment of the annual license tax imposed by s. 320.08, F.S. The qualifications are that the person is a United States citizen and Florida resident who have been awarded the Silver Star, Distinguished Service Cross, Navy Cross, or Air Force Cross.

The effective date of these sections of the bill is October 1, 2012.

Purple Heart Day (Section 15)

Present Situation

The Purple Heart

The Purple Heart was established by General George Washington on August 7, 1782, during the Revolutionary War, and reestablished by President Franklin D. Roosevelt in 1932.⁶⁴ The Purple Heart currently is awarded pursuant to executive order and federal law.⁶⁵

⁶³ 10 U.S.C. s. 3746.

⁶⁴ See Army Regulation 600-8-22, Personnel-General, Military Awards, Chapter 2, Section 8, page 19, at http://www.apd.army.mil/pdffiles/r600_8_22.pdf (last visited January 18, 2012).

⁶⁵ Executive Order 11016, April 25, 1962; Executive Order 12464, February 23, 1984; and Public Law 98-525, October 19, 1984.

The award is given in the name of the President of the United States (U.S.) and is limited to members of the U.S. Armed Forces who, while serving under component authority in any capacity after April 5, 1917, has been:

- wounded or killed;
- died or may hereafter die after being wounded; or
- wounded or killed as a result of friendly fire and in acts of terrorism.⁶⁶

Legal Holidays and Special Observance Days

Current law establishes 50 legal holidays and special observance days, including Memorial Day, Veterans' Day, and Patriots' Day.⁶⁷ Legal holidays and special observances may apply throughout the state or they may be limited to particular counties. Designation of a day as a legal holiday does not necessarily make that day a paid holiday for public employees.⁶⁸ Current law does not contain a designation for Purple Heart Day.⁶⁹

Effect of Changes

The bill designates August 7 of each year as "Purple Heart Day." It authorizes the Governor to annually issue a proclamation designating August 7 as "Purple Heart Day." The bill encourages public officials, schools, private organizations, and all residents of the state to commemorate Purple Heart Day and to honor those wounded or killed while serving in any branch of the United States Armed Services.

The effective date of this section of the bill is July 1, 2012.

T. Patt Maney Veterans' Treatment Intervention Act (Sections 16 – 20)

Present Situation

In 2008, the Florida Department of Veterans' Affairs and the Florida Office of Drug Control issued a paper examining the issue of mental health and substance abuse needs of returning veterans and their families.⁷⁰ The study noted that combat medical advances are enabling veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) to survive wounds that would have been fatal in previous conflicts, and thus some are returning with "more complex physical and emotional disorders, such as Traumatic Brain Injuries (TBI) and Post-Traumatic Stress Disorder (PTSD), substance abuse and depression."⁷¹ The study also estimated that approximately 29,000 returning veterans residing in Florida may suffer from PTSD or some form of major depression.⁷²

A 2008 Rand Center report indicated that preliminary studies showed that 5 to 15 percent of OIF and OEF service members are returning with PTSD, 2 to 10 percent with depression, and an unknown

⁶⁶ See Army Regulation 600-8-22, Personnel-General, Military Awards, Chapter 2, Section 8, page 20, at http://www.apd.army.mil/pdffiles/r600_8_22.pdf, provides definitions and examples of what qualifies and what does not qualify as a "wound" and other stipulations of who may receive the Purple Heart Award. (Last visited January 18, 2012).

⁶⁷ See ch. 683, F.S.

⁶⁸ Section 110.117, F.S., establishes which legal holidays are paid holidays for public employees.

⁶⁹ See ch.683, F.S.

⁷⁰ Florida Department of Veterans' Affairs and Florida Office of Drug Control Green Paper, *Returning Veterans and Their Families with Substance Abuse and Mental Health Needs: Florida's Action Plan*, January 2009, page 5, http://www.helppromotehope.com/documents/Veterans_Green_Paper.pdf (last visited on January 10, 2012).

⁷¹ *Id.*

⁷² *Id.*

number with TBI.⁷³ A person with any of these disorders also has a greater likelihood of experiencing other psychiatric diagnoses than do other persons.⁷⁴

A report by the Center for Mental Health Services National GAINS Center of the federal Substance Abuse and Mental Health Services Administration (SAMHSA) noted that many veterans coming into contact with the criminal justice system may have unmet service needs.⁷⁵ Veterans' courts have been established across the country as some judges have begun to recognize a correlation between the commission of offenses by veterans and substance abuse issues, mental health issues, and cognitive functioning problems.

Veterans' courts have the goal of identifying veterans who would benefit from a treatment program instead of incarceration or other sanctions. They are typically patterned after successful specialty courts such as drug courts and mental health courts. Since 2008, legislation authorizing the establishment of veterans' courts has been adopted or at least considered in California, Colorado, Illinois, Oregon, Texas and Virginia, and has been considered in Connecticut, Minnesota, Nevada, New Mexico, New York and Oklahoma.⁷⁶

Veterans' Courts in Florida

There are several veterans' court and veterans' jail diversion initiatives in Florida.

The veterans' court program in Miami-Dade County is available to veterans who are facing minor drug offenses and do not have a violent or extensive criminal history. In its initial stages, the program has drawn participants from defendants who are already involved with traditional drug court. They receive similar treatment, but also are assisted by a United States Department of Veterans Affairs (VA) psychologist and outreach coordinator.⁷⁷

The Palm Beach County veterans' docket began operating in November 2010.⁷⁸ A feature of the program is the assignment of a VA social worker supervisor to act as the court's VA liaison. This VA employee has oversight of screening and case management services for eligible veterans. In addition to receiving any needed mental health and substance abuse treatment, participating veterans also have access to VA programs that address homelessness and unemployment.

In April 2011, the Okaloosa County Commission approved creation of a veterans' court for the county that is expected to begin operation in 2012. Although there is currently no formal veterans' court, many cases of veterans in the county are already being referred to a court docket with special knowledge of veterans and veterans' issues. To determine eligibility, offenders are asked at initial booking if they have ever served in the military and what type of discharge they received. Veterans are further asked if they will sign a release in order to share information with the VA. Further screenings are conducted

⁷³ Rand Center for Military Health Policy Research, Benjamin R. Karney, Rajeev Ramchand, Karen Chan Osilla, Leah B. Caldarone, and Rachel M. Burns, *Invisible Wounds, Predicting the Immediate and Long-Term Consequences of Mental Health Problems in Veterans of Operation Enduring Freedom and Operation Iraqi Freedom*, April 2008, page 127, at http://www.rand.org/pubs/working_papers/2008/RAND_WR546.pdf (last visited on January 10, 2012).

⁷⁴ *Id.*

⁷⁵ GAINS Center, *Responding to the Needs of Justice-Involved Combat Veterans with Service-Related Trauma and Mental Health Conditions*, August 2008, page 6, at http://gainscenter.samhsa.gov/pdfs/veterans/CVTJS_Report.pdf (last visited on January 10, 2012).

⁷⁶ National Association of Drug Court Professionals website at <http://www.nadcp.org/learn/veterans-treatment-courts/veterans-treatment-court-studies-and-statistics> (last visited on January 10, 2012).

⁷⁷ "Miami-Dade starts specialized drug court for military veterans," May 4, 2011, <http://vetlawyers.com/vetblog/index.php/2011/05/miami-dade-starts-specialized-drug-court-for-military-veterans/> (last visited on January 10, 2012).

⁷⁸ The Veteran's Docket was established by Administrative Order No. 4.905-11/10 of the Fifteenth Judicial Circuit for Palm Beach County, which can be downloaded from <http://15thcircuit.co.palm-beach.fl.us/web/guest/adminorders/series4> (last visited on January 10, 2012).

through the Pre-Trial Services Office, and the program use drug court case managers to monitor participants.

The 12th Judicial Circuit (DeSoto, Sarasota and Manatee Counties) has established a program called "Courts Assisting Veterans." While not a true veterans' court, it seeks to achieve similar goals through the use of existing programs, including referral of veterans to existing drug and mental health courts.⁷⁹

In October 2009, the Department of Children and Families' Mental Health Program Office (department) was awarded over \$1.8 million from SAMHSA over five years to provide services and support for Florida's returning veterans who served in Iraq and Afghanistan and who suffer from PTSD and other behavioral health disorders. The department describes the grant and the project as follows:

The project will redesign the state's response to the needs of veterans and their family members by helping returning veterans learn to cope with the trauma of war and the adjustments of coming home and avoiding unnecessary involvement with the criminal justice system. Florida's project is based on a foundation of evidence-based screening, assessment, treatment and recovery practices. The grant will enable the Department to implement two veteran's jail diversion pilot projects for 240 veterans over the next five years. This grant will expand the Department's existing jail diversion programs by identifying veterans who have an initial contact with the criminal justice system, helping them enroll in Veteran's Administration benefits for those who are eligible, providing trauma-related treatment services, linking them with support services in their community, and providing specialized peer support services. Additionally, this grant enables the Department to include family members as recipients of services. One unique aspect of this grant is Florida's creation and implementation of a new state-level Veteran Peer Support Specialist credential, possible through the Department's ongoing partnership with the Florida Certification Board. Certification of trained veterans will professionalize what we know works - trained veterans who've been there helping other returning veterans adjust to their home and community. In the first year, the grant from the federal Substance Abuse and Mental Health Services Administration (SAMHSA) will provide DCF with \$268,849. Hillsborough County is one of two sites that will launch Florida's Jail Diversion and Trauma Recovery Program. The location of the other pilot project has not yet been determined.⁸⁰

Felony Pretrial Diversion Programs

Pretrial diversion has been described by the National Association of Pretrial Services Agencies as a voluntary option, which provides alternative criminal case processing for a defendant charged with a crime that ideally, upon successful completion of an individualized program plan, results in a dismissal of the charge.⁸¹ The purpose of a pretrial diversion/intervention program is to enhance justice and public safety through addressing the root cause of the arrest-provoking behaviors of the defendant, reduce the stigma which accompanies a record of conviction, restore victims and assist with the conservation of court and criminal justice resources.⁸²

Section 948.08, F.S., establishes felony pretrial intervention programs that provide appropriate counseling, education, supervision, and medical and psychological treatment. These programs serve first time offenders, or those previously convicted of not more than one nonviolent misdemeanor, who are charged with a misdemeanor or a third degree felony.⁸³ Participation is subject to the approval of

⁷⁹Courts Assisting Veterans, 12th Judicial Circuit, <http://12circuit.state.fl.us/ProgramsServices.aspx> (last visited on January 10, 2012).

⁸⁰ Florida Department of Children and Families' description of the Veterans Jail Diversion Grant at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/consumerfamilyaffairs/currinitiatives.shtml> (last visited on January 10, 2012).

⁸¹ Performance Standards and Goals for Pretrial Diversion/Intervention National Association of Pretrial Services Agencies November 2008. http://www.napsa.org/publications/diversion_intervention_standards_2008.pdf (last visited on October 10, 2011).

⁸² *Id.*

⁸³ Section 948.08(2), F.S.

the program administrator and consent of the victim, the state attorney, and the judge who presided at the offender's initial appearance.⁸⁴

At the end of the intervention period, the program administrator must recommend whether the case should revert to normal channels for prosecution, whether the offender is in further need of supervision, or whether dismissal of the charges without prejudice should be entered. The state attorney makes the final determination as to whether prosecution will continue.⁸⁵

Felony Pretrial Substance Abuse Education and Treatment Intervention Programs

Section 948.08(6), F.S., establishes felony pretrial substance abuse education and treatment intervention programs. These programs serve offenders:

- Charged with a nonviolent felony;⁸⁶
- Who are identified as having a substance abuse problem or who are charged with a second or third degree felony for purchase or possession of a controlled substance under ch. 893, F.S., prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud;
- Who have not been charged with a crime involving violence; and
- Who has not previously been convicted of a felony.⁸⁷

Either party, or the court, can make a motion for an offender to participate in such programs. A defendant may be denied admission to a program if he or she rejected a previous offer to participate in such a program and must be denied admission if the state attorney establishes, after a hearing, that the defendant was involved in dealing or selling controlled substances.⁸⁸

Participants in the program are subject to a coordinated strategy⁸⁹ developed by a drug court team under s. 397.334(4), F.S., which may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court.⁹⁰

At the end of the pretrial intervention period, the court must consider the recommendation of the program administrator and the recommendation of the state attorney as to disposition of the pending charges.⁹¹ The court must determine, by written finding, whether the defendant successfully completed the pretrial intervention program.⁹² If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or order that the charges revert to normal channels for prosecution.⁹³ The court must dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.⁹⁴

⁸⁴ *Id.*

⁸⁵ Section 948.08(5), F.S.

⁸⁶ Section 948.08(6), F.S., defines "nonviolent felony" as a third degree felony violation of ch. 810, F.S., or any other felony offense that is not a forcible felony as defined in s. 776.08, F.S.

⁸⁷ Section 948.08(6)(a), F.S.

⁸⁸ *Id.*

⁸⁹ The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Section 948.08(6)(b), F.S.

⁹⁰ Section 948.08(6)(b), F.S.

⁹¹ Section 948.08(6)(c), F.S.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

Misdemeanor Pretrial Diversion Programs

Section 948.16, F.S., specifies that a person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S.,⁹⁵ and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program,⁹⁶ for a period based on the program requirements and the treatment plan for the offender. Admission to such a program may be based upon the motion of either party or the court's own motion.⁹⁷

Participants in the program are subject to a coordinated strategy⁹⁸ developed by a drug court team under s. 397.334(4), F.S., which may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court.⁹⁹

At the end of the pretrial intervention period, the court is required to consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges.¹⁰⁰ The court must determine, by written finding, whether the defendant successfully completed the pretrial intervention program.¹⁰¹ If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution.¹⁰² The court must dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.¹⁰³

Terms and Conditions of Probation

Probation is a form of community supervision requiring specified contacts with parole and probation officers and compliance with court-ordered conditions of supervision.¹⁰⁴ When someone is sentenced to probation, the court determines the terms and conditions of his or her supervision.¹⁰⁵ Section 948.03, F.S., sets forth standard conditions of supervision that a court may impose on offenders sentenced probation. These include conditions such as a requirement that the offender report to the probation and parole supervisors as directed, permit such supervisors to visit him or her at his or her home or elsewhere, work faithfully at suitable employment insofar as may be possible, remain within a specified place, submit written monthly reports, abide by the laws of the state, etc.¹⁰⁶ In addition to the standard conditions of supervision, the court can impose any other special condition of supervision it considers proper (e.g., a condition requiring an offender to participate in treatment).¹⁰⁷

⁹⁵ Chapter 893, F.S., is the Florida Comprehensive Drug Abuse Prevention and Control Act.

⁹⁶ Section 397.334, F.S., authorizes counties to fund treatment-based drug court programs and sets criteria for such programs.

⁹⁷ Admission may be based upon motion of either party or the court except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into the pretrial intervention program. Section 948.16(1)(a), F.S.

⁹⁸ The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Section 948.16(1)(b), F.S.

⁹⁹ Section 948.16(1)(b), F.S.

¹⁰⁰ Section 948.16(2), F.S.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Section 948.001(8), F.S.

¹⁰⁵ Section 948.03, F.S.

¹⁰⁶ *Id.*

¹⁰⁷ Section 948.03(2), F.S.

Effect of Changes

The bill provides that the act may be cited as the “T. Patt Maney Veterans’ Treatment Intervention Act.”

The bill creates s. 394.47891, F.S., entitled “Military veterans and servicemembers court programs.” The bill authorizes the chief judge of each judicial circuit to establish a Military Veterans and Servicemembers Court Program (Program) under which veterans¹⁰⁸ and servicemembers¹⁰⁹ who are convicted of a criminal offense and who suffer from a mental illness, TBI, substance abuse disorder, or psychological problem as a result of their military service can be sentenced in accordance with ch. 921, F.S., in a manner that appropriately addresses the severity of the mental illness, TBI, substance abuse disorder, or psychological problem through services tailored to the individual needs of the participant.

The bill requires entry into a program to be based upon the sentencing court’s assessment of the defendant’s criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant’s agreement to enter the program.

The bill amends ss. 948.08 and 948.16, F.S., creating felony and misdemeanor pre-trial diversion programs for veterans and service members who are suffering from a military service-related mental illness, TBI, substance abuse disorder, or psychological problems. The provisions in this section would make these persons eligible for placement in an appropriate treatment program that is approved by the chief judge of the circuit instead of being processed through the criminal justice system.

The felony pretrial veterans treatment intervention program would apply to any veteran with one of the conditions who is charged with a felony that is not a disqualifying offense. Section 948.08, F.S., references s. 948.06 (8)(c), F.S., to incorporate the offenses used to determine whether an offender is to be treated as a “violent felony offender of special concern” as disqualifying offenses. The disqualifying offenses are:

- Kidnapping or attempted kidnapping under s. 787.01, F.S., false imprisonment of a child under the age of 13 under s. 787.02(3), F.S., or luring or enticing a child under s. 787.025(2)(b) or (c), F.S.
- Murder or attempted murder under s. 782.04, F.S., attempted felony murder under s. 782.051, F.S., or manslaughter under s. 782.07, F.S.
- Aggravated battery or attempted aggravated battery under s. 784.045, F.S.
- Sexual battery or attempted sexual battery under s. 794.011(2), (3), (4), or (8)(b) or (c), F.S.
- Lewd or lascivious battery or attempted lewd or lascivious battery under s. 800.04(4), F.S., lewd or lascivious molestation under s. 800.04(5)(b) or (c)2., F.S., lewd or lascivious conduct under s.

¹⁰⁸ The bill defines the term “veteran” in accordance with s. 1.01(14), F.S., as a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or a veteran must have served during one of the following periods of wartime service: Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion; Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto; World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918; World War II: December 7, 1941, to December 31, 1946; Korean Conflict: June 27, 1950, to January 31, 1955; Vietnam Era: February 28, 1961, to May 7, 1975; Persian Gulf War: August 2, 1990, to January 2, 1992; Operation Enduring Freedom: October 7, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law; or Operation Iraqi Freedom: March 19, 2003, and ending on the date thereafter prescribed by presidential proclamation or by law.

¹⁰⁹ The bill defines the term “servicemember” in accordance with s.250.01(19), F.S., as any person serving as a member of the U.S. Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces.

800.04(6)(b), F.S., lewd or lascivious exhibition under s. 800.04(7)(b), F.S., or lewd or lascivious exhibition on computer under s. 847.0135(5)(b), F.S.

- Robbery or attempted robbery under s. 812.13, F.S., carjacking or attempted carjacking under s. 812.133, F.S., or home invasion robbery or attempted home invasion robbery under s. 812.135, F.S.
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person under s. 825.1025, F.S.
- Sexual performance by a child or attempted sexual performance by a child under s. 827.071, F.S.
- Computer pornography under s. 847.0135(2) or (3), F.S., transmission of child pornography under s. 847.0137, F.S., or selling or buying of minors under s. 847.0145, F.S.
- Poisoning food or water under s. 859.01, F.S.
- Abuse of a dead human body under s. 872.06, F.S.
- Any burglary or attempted burglary offense that is a first-degree or second-degree felony under s. 810.02(2) or (3), F.S.
- Arson or attempted arson under s. 806.01(1), F.S.
- Aggravated assault under s. 784.021, F.S.
- Aggravated stalking under s. 784.048(3), (4), (5), or (7), F.S.
- Aircraft piracy under s. 860.16, F.S.
- Unlawful throwing, placing, or discharging of a destructive device or bomb under s. 790.161(2), (3), or (4), F.S.
- Treason under s. 876.32, F.S.

If a veteran with one of the conditions is not charged with a disqualifying offense, he or she would be eligible to be admitted voluntarily into a felony pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. Admission may be upon the court's own motion or the motion of either party. However, there are two circumstances under which a veteran could be denied admission into a program:

- The court may deny admission if the veteran rejected an offer of admission to a pretrial veterans treatment intervention program on the record at any time prior to trial.
- The court may deny admission if the veteran previously entered a court-ordered veterans treatment program.

The misdemeanor pretrial veterans treatment intervention program allows any veteran with one of the conditions who is charged with a misdemeanor to be eligible to be admitted voluntarily into a misdemeanor pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. However, the court can deny admission if the defendant had previously entered a court-ordered veterans treatment program.

Additionally, the bill requires that a veterans treatment intervention team develop an individualized coordinated strategy for any veteran who is to be admitted to either a felony or misdemeanor pretrial veterans treatment intervention program. This coordinated strategy must be provided to the veteran in writing before he or she agrees to enter the program. The strategy is to be modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs that are found in s. 397.334(4), F.S. These principles and components are:

- Drug court programs integrate alcohol and other drug treatment services with justice system case processing.
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- Eligible participants are identified early and promptly placed in the drug court program.

- Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- Abstinence is monitored by frequent testing for alcohol and other drugs.
- A coordinated strategy governs drug court program responses to participants' compliance.
- Ongoing judicial interaction with each drug court program participant is essential.
- Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.
- Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.
- Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

The coordinated strategy can include a system of sanctions for non-compliance. The sanctions can include placement in a residential or jail-based treatment program or incarceration for up to the length of time that is allowed for contempt of court.

At the end of the intervention program of the felony diversion program, the court must consider recommendations for disposition made by the treatment program and the state attorney. After considering these recommendations, the court must dismiss the charges if it finds that the veteran successfully completed the intervention program. If the court finds that the veteran did not successfully complete the program, it can either order the veteran to continue in education and treatment or order that the charges revert to normal channels for prosecution.

The felony and misdemeanor treatment-based drug court program statutes on which the pretrial veterans treatment intervention program are modeled include requirements for the county or appropriate government entity to enter into a contract with any public or private entity that provides felony or pretrial diversion services. However, the bill does not include this requirement for felony pretrial veterans treatment intervention programs, and provides an exception for contracting with VA and FDVA programs in the statute that creates misdemeanor pretrial veterans treatment intervention programs. It is anticipated that much of the needed treatment will be provided by the VA as a benefit that is available to the veteran or servicemember as a result of his or her military service.

The bill expressly provides that a veteran or servicemember who successfully completes a pretrial diversion program can have his or her arrest record for the dismissed charges expunged under s. 943.0585, F.S., if otherwise eligible to do so.

The bill also creates s. 948.21, F.S., entitled "Condition of probation or community control; military service members and veterans." The bill authorizes a court to impose a condition of supervision requiring probationers or community controllees whose crime was committed on or after July 1, 2012, and who is a servicemember or veteran, who suffers from a military service-related mental illness, TBI, substance abuse disorder, or psychological problem, to participate in a treatment program capable of treating the offender's mental illness, TBI, or substance abuse disorder. The bill requires the court to give preference to treatment programs for which the probationer or community controllee is eligible through the United States Department of Veterans' Affairs or the Florida Department of Veterans' Affairs.

The bill provides that the Department of Corrections is not required to spend state funds on the implementation of this bill.

The effective date of these sections of the bill is July 1, 2012.

Postsecondary Education Course Registration for Veterans (Sections 21 – 22)

Present Situation

Priority Course Registration

Florida laws authorize colleges and universities to establish rules and policies to govern admission of students to programs and courses within the institutions. All State University System and Florida College System institutions have priority course registration for designated groups of students as a component of their admission policies.¹¹⁰

Priority course registration allows designated groups of students at colleges and universities to register for courses for an upcoming semester before the entire student population is able to register. Some examples of groups of students who may typically be eligible for priority course registration at institutions that implement such a policy include: upper division students, student athletes, students with disabilities, honors college students, and student veterans.

Postsecondary institutions are currently not required to offer veterans of the U.S. Armed Forces priority when registering for courses based on their status as a veteran.¹¹¹ It is at the discretion of both public and private institutions of higher education whether or not to offer priority course registration and to determine which groups of students would be eligible. If an institution does not offer priority registration for veterans, students who are veterans register for courses at the same time as the general student population.

Currently, the following public colleges and universities offer priority course registration for veterans: Florida International University, Florida State University, the University of South Florida, Tallahassee Community College, St. Petersburg College, Northwest Florida State College, and Miami-Dade College. The institutions licensed by the Commission for Independent Education (Commission) currently enroll veterans, but do not generally provide priority course registration for a segment of the population.¹¹²

For those veterans who attend institutions that do not provide priority course registration for veterans using the GI Bill, the Department of Veterans' Affairs provided the following example: if a veteran using the GI Bill is a junior registering for classes, the veteran may have to wait for the seniors to register first. Then, the veteran would have to compete with other juniors to register for the class seats still available. If the veteran is unable to register for classes required for the degree, he or she would be unable to take non-degree electives to maintain full-time enrollment status and could receive a reduction of benefits through the GI Bill.¹¹³

Federal GI Bill Education Benefits Programs for Veterans

The U.S. Department of Veterans Affairs (VA) administers a variety of education benefit programs, commonly known as the GI Bill, for veterans pursuing higher education. The most commonly utilized GI Bill benefits include the Montgomery GI Bill Active Duty and the Post 9/11 - GI Bill. The Post 9/11 -

¹¹⁰ For public universities, the Florida Board of Governor's regulation 1.001(4)(a)3., authorizes the board of trustees of each state university to adopt university regulations or policies relating to the admission and enrollment of students, which would include priority course registration policies. Section 1007.263, F.S., governs admissions of students to Florida College System institutions.

¹¹¹ Section 1.01(14), F.S., defines the term "veteran" as a person who serves in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later receive an upgrade discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

¹¹² Department of Education Analysis, *Bill Analysis for HB 45* (August 17, 2011).

¹¹³ Telephone conversation with Department of Veterans Affairs Office (November 8, 2011).

GI Bill is the most recent adaptation of the GI Bill and offers substantially enhanced financial assistance compared to the Montgomery GI Bill.

*The Montgomery GI Bill Active Duty (MGIB-AD) Educational Assistance Program
(Chapter 30 of Title 38, U.S. Code)*

The benefits outlined in chapter 30 are available to veterans who served on active duty service beginning on or after July 1, 1985. In order to use benefits under the MGIB-AD, service members must serve on active duty for a minimum of two years and receive a fully honorable discharge. Recipients receive one month of benefits for each month of active duty.

The GI Bill monthly payment rate is determined by two factors: student status (full time, half time, or part time) and duty status. In most cases a student would be considered a full time student if he or she is taking 12 or more credits per semester. If a student is on active duty, the GI Bill will only reimburse for the actual tuition and expenses. Once a student leaves active duty service, the GI Bill will pay the full payment rate regardless of the actual cost of tuition.¹¹⁴

*The Post 9/11 Veterans Educational Assistance Program (Post-9/11)
(Chapter 33 of Title 38, U.S. Code)*

In order to qualify for chapter 33 benefits, a service member must have served on active duty for a minimum of 90 days after September 10, 2001. A veteran's eligibility for benefits under this chapter expires 15 years from the date of the last discharge. Individuals eligible under chapter 33 are entitled to 36 months of educational assistance. Service members enrolled in the Post-9/11 GI Bill program are able to transfer unused education benefits to their spouses or children.

The new Post 9/11 GI Bill, which went into effect on August 1, 2009, provides education benefits for service members who have served on active duty for 90 or more days since Sept. 10, 2001. These benefits are tiered based on the number of days served on active duty, creating a benefit package that gives current and previously activated National Guard and Reserve members the same benefits as active duty service members.¹¹⁵

Veterans in Florida

Florida's population of 1.6 million veterans is the third largest in the nation, after California and Texas.¹¹⁶ Florida is home to approximately 127,000 veterans whose ages range from 18-34, which demonstrates a significant concentration of "college age" veterans who may be interested in pursuing higher education either at the undergraduate or the graduate level.

Both nationwide and in Florida, there has recently been an influx of veterans on college campuses. Nationwide, the number of veterans enrolling in colleges has increased to approximately 800,000 veterans using the GI Bill in 2010, which is an increase of 40 percent from 2009.¹¹⁷ In Florida, there is a large student veteran presence in universities and colleges. For the 2010 academic year, 10,966 veterans and/or spouses or dependent children were enrolled in the State University System of

¹¹⁴ Active Duty Montgomery GI Bill User's Guide, available at <http://www.military.com/education/content/gi-bill/active-duty-gi-bill-users-guide.html>.

¹¹⁵ New Post 9/11 GI Bill Overview available at <http://www.military.com/education/content/gi-bill/new-post-911-gi-bill-overview.html>.

¹¹⁶ Florida Department of Veterans' Affairs 2009-10 Annual Report, available at http://www.floridavets.org/pdf/ann_rprt_10.pdf.

¹¹⁷ Trevor Hughes, *Vets Go From Combat to Campus*, USA Today, April 12, 2011, available at http://www.usatoday.com/news/education/2011-04-11-college-vets_N.htm.

Florida;¹¹⁸ 15,604 in the Florida College System;¹¹⁹ 16,500 in private for-profit institutions; and 4,490 in private non-profit institutions.¹²⁰

Effect of Changes

This bill is intended to extend priority registration opportunities to veterans if the institution offers such opportunities to other students. More specifically, the bill requires institutions within the Florida College System and the State University System that offer priority course registration for a segment of the student population, or upon the implementation of such a policy, to provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits. The bill also allows for the spouse or dependent children of the veteran to whom the GI Bill educational benefits have been transferred to be granted priority course registration. The bill will enable veterans who are utilizing GI Bill educational benefits to have greater access to available courses, thereby decreasing the number of excess hours taken by veterans and reducing the time to graduation.

The bill encourages independent postsecondary educational institutions¹²¹ that offer priority course registration for a segment of the student population, or upon the implementation of such a policy, to provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits. The spouse or dependent children of the veteran to whom the GI Bill educational benefits have been transferred must also be granted priority course registration. Since independent postsecondary institutions are not required to implement a priority course registration policy, the impact on veterans enrolled in those institutions will depend upon whether a policy is adopted.

The bill provides that qualified GI Bill recipients will be eligible for priority course registration until the expiration of the GI Bill educational benefits.

The effective date of these sections of the bill is July 1, 2012.

Road Designations (Sections 23 – 33)

Present Situation

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires the Department of Transportation (DOT) to place a marker at each termini or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

- Army SP4 Thomas Berry Corbin died in combat in South Vietnam in 1968. He received the Army Silver Star.
- Navy BMC Samuel Calhoun Chavous, Jr., died in combat in South Vietnam in 1968.

¹¹⁸ Board of Governors Analysis, *Bill Analysis for HB 45* (September 16, 2011).

¹¹⁹ Email, Florida Department of Education, Division of Florida Colleges (October 28, 2011).

¹²⁰ Independent Colleges & Universities of Florida Accountability Report, 13, (2010), *available at*

<http://www.icuf.org/newdevelopment/publications/icuf-accountability-report>.

¹²¹ Section 1005.02(11), F.S., defines the term “independent postsecondary educational institutions” as any postsecondary educational institution that operates in this state or makes application to operate in this state, and is not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government.”

- Marine Lance Cpl. Brian Rory Buesing died in combat in Iraq in 2003.
- Army Sergeant Karl Andrew Campbell died in Afghanistan in 2010.
- Army SPC James Anthony Page died in Afghanistan in 2010.
- Based in Mayport, FL., the USS Stark was attacked by an Iraqi jet fighter in 1987, killing 37 American sailors.
- Captain Jim Reynolds, Jr., USAF “Mailbu” died during a training mission at the Nellis Air Force Base Range in Nevada in 1993.
- Army Sergeant Robert Daniel Sanchez died in combat in Afghanistan in 2009.
- Marine Corps Corporal Dustin Schrage died in Iraq in 2004.

Effect of Changes

The bill makes the following honorary designations:

- That portion of U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County as “SP4 Thomas Berry Corbin Memorial Highway.”
- That portion of U.S. Highway 19/98/State Road 55 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E. 170th Street in Dixie County as “U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway.”
- That portion of State Road 24 between County Road 374 and Bridge Number 340053 in Levy County as “Marine Lance Corporal Brian R. Buesing Memorial Highway.”
- That portion of U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy County as “United States Army Sergeant Karl A. Campbell Memorial Highway.”
- That portion of U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County as “U.S. Army SPC James A. Page Memorial Highway.”
- That portion of State Road 101/Mayport Road between State Road A1A and Wonderwood Connector in Duval County as “USS Stark Memorial Drive.”
- That portion of State Road 44 in Lake County between U.S. Highway 441 and State Road 44/East Orange Avenue near Eustis as “Captain Jim Reynolds, Jr., USAF ‘Malibu’ Road.”
- That portion of State Road 19 in Putnam County between U.S. 17/State Road 15 and Carriage Drive as “Veterans Memorial Highway.”
- That portion of State Road 513 between Banana River Drive and Eau Gallie Boulevard in Brevard County is designated as “U.S. Army Sergeant Robert Daniel Sanchez Memorial Highway.”
- That portion of State Road A1A between Pinetree Drive and Eau Gallie Boulevard in Brevard County is designated as “U.S. Marine Corps Corporal Dustin Schrage Highway.”
- That portion of State Road 20/John Sims Parkway (57-040-000) between State Road 85 and the Walton County Line in Okaloosa County is designated as “Purple Heart Memorial Highway.”

The bill directs DOT to erect suitable markers designating each of the above designations.

The effective date of these sections of the bill is July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Special Use License Plates (Section 14)

The fiscal impact is indeterminate negative, but likely insignificant to both state trust funds and general revenue.

For a standard size private use vehicle, net weight of 2,500 pounds or more, but less than 3,500 pounds, the annual tax is \$30.50, of which \$8 is deposited into the General Revenue Fund and the balance in the State Transportation Trust Fund. It is unclear how many Florida residents are recipients of these military decorations and would be eligible to apply for this license plate. Therefore, the revenue lost by the waiver of the license taxes under s. 320.08, F.S., is indeterminate to both the General Revenue Fund and the State Transportation Trust Fund.

2. Expenditures:

Florida Veteran Business Enterprise Opportunity Act (Section 12)

The cost to implement this section is expected to be insignificant. The DMS estimates the cost of implementing this section, to be approximately \$10,000 related to programming system updates and \$30,000 to hire temporary staff (Other Personal Services) to process the certification applications of wartime veterans.¹²²

Based on prior year spending by DMS, the cost to implement the provisions of this section can be covered within existing resources. In FY 2010-11, DMS reverted over \$79,000 in Other Personal Services budget authority. A review of the first six months of FY 2011-12, indicates DMS is estimated to revert in excess of \$60,000.

Special Use License Plates (Sections 13 – 14)

The cost to produce these plates is minimal and can be absorbed within existing resources. It is unknown how many Florida residents are eligible to receive these plates, and therefore unknown how many will apply to receive the license plate.

Purple Heart Day (Section 15)

The Office of External Affairs within the Executive Office of the Governor prepares all proclamations. Reviewing and processing a proclamation may incur a cost. However, according to the Executive Office of the Governor, the cost is likely insignificant and provided as a courtesy.¹²³

Veteran Pretrial Intervention Programs (Sections 18-19)

The Department of Corrections has indicated they do not believe the felony pre-trial intervention provisions will have a significant impact on their workload. The Department of Corrections is not responsible for the cost of treatment.

Road Designations (Sections 23 – 33)

DOT will incur costs of approximately \$11,000 (from the State Transportation Trust Fund) for erecting markers for the designations. This is based on the assumption that two markers for each designation will be erected at a cost of \$500 per marker. DOT will also incur the recurring costs of maintaining these signs over time, and for future replacement of the signs as necessary.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Property Tax Exemption for Deployed Servicemembers (Section 3 – 4)

The Revenue Estimating Conference estimated a negative \$0.1 million impact on local governments in FY 2012-13.

¹²² Department of Management Services' Bill Analysis, September 15, 2011, on file with the House Government Operations Appropriations Subcommittee.

¹²³ Information received by telephone from Brenda Burdette, the Executive Office of the Governor, Legislative Affairs Office, January 18, 2012.

2. Expenditures:

Veteran Pretrial Intervention Programs (Sections 18-19)

The bill creates a misdemeanor pre-trial intervention program for current or former military servicemembers suffering from mental illness, TBI, substance abuse disorder, or psychological problems resulting from service. Veterans who have not been charged with specified offenses are eligible to voluntarily participate in such programs in lieu of being processed through the criminal justice system. At the end of the intervention program, the court must dismiss the charges if it finds that the veteran successfully completed the intervention program. This program could have a positive fiscal impact on local jails, but could have a negative fiscal impact on county misdemeanor probation services.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Property Tax Exemption for Deployed Servicemembers (Section 3 – 4)

Qualifying servicemembers who were deployed overseas during 2011 on or in support of the operations designated by this bill may see a reduction in their property taxes.

Grants for Military Base Retention (Section 7)

This section may have a positive impact on the state and local economy if it is successful in keeping the state's current military base infrastructure intact while promoting the transfer of additional military assets to the state.

Florida Veteran Business Enterprise Opportunity Act (Section 12)

This section may assist wartime veterans in competing for state contracts by expanding the Service-Disable Veteran Business Enterprise certification program to include wartime veterans and veterans of a period of war. This section may have a negative impact on the service-disable veteran enterprises as the section may diminish their ability to secure contracts under the preference as it expands the pool of vendors by allowing wartime veterans and veterans of a period of war to be certified as a Veteran Business Enterprise.

Special Use License Plates (Section 14)

Silver Star, Distinguished Service Cross, Navy Cross, and Air Force Cross recipients wishing to indicate such status on their motor vehicle license plate would be entitled to receive a plate without paying the standard license tax required by s. 320.08, F.S.

Veteran Pretrial Intervention Programs (Sections 18-19)

This bill would have an impact on the private sector to the extent that participants may be diverted from incarceration into private treatment programs.

Postsecondary Education Course Registration for Veterans (Sections 21 – 22)

A veteran or his or her spouse or dependent children receiving GI Bill educational benefits may benefit from priority course registration which would give the recipient greater access to the courses needed in order to move through a degree/certificate program rapidly and graduate earlier.

D. FISCAL COMMENTS:

Florida Veterans' Hall of Fame Council (Section 2)

The bill provides for the establishment of the Florida Veterans' Hall of Fame Council. Although members of the council may not receive compensation for their services, they are entitled to reimbursement for travel expenses incurred in the performance of their duties, however, the bill states that state funds may not be used for this purpose. When the Hall of Fame was created in 2011, the Florida Veterans' Foundation, a 501(c)(3) organization and FDVA's Direct Support Organization authorized in s. 292.055, F.S., indicated it would be responsible for the initial and ongoing operation and maintenance costs of the Hall of Fame.

Special Use License Plates (Sections 13 – 14)

The bill will require Information Systems Administration (“ISA”) hours to implement, but these hours can be incorporated into ISA’s normal workload.

T. Patt Maney Veterans’ Treatment Intervention Act (Sections 16 – 20)

The Criminal Justice Impact Conference has determined that this bill will have no impact on state prison beds.

The bill provides that the Department of Corrections is not required to spend state funds to implement the requirements of the bill. Therefore, the bill does not have a fiscal impact on the Department of Corrections.

The Office of State Courts Administrator anticipates an increase in workload because the bill will require judicial effort to become familiar with veterans’ treatment options, and additional hearing time to determine if defendants qualify for programs.¹²⁴ The Office of State Courts Administrator has determined the cost of the increase in workload can be absorbed within existing means.¹²⁵

Postsecondary Education Course Registration for Veterans (Sections 21 – 22)

The State University System and the Florida College System expect a minimal fiscal impact as a result of the priority course registration. Both systems acknowledge that minimal expenses may occur due to computer programming and related administrative costs of implementation.¹²⁶

¹²⁴ Office of State Courts Administrator, 2012 Judicial Impact Statement, HB 117, September 26, 2011

¹²⁵ E-mail from Eric Maclure, Director of Community and Intergovernmental Relations, Office of State Courts Administrator, January 25, 2012; On file with Justice Appropriations Subcommittee staff

¹²⁶ Department of Education Analysis, *Bill Analysis for HB 45* (August 17, 2011).