

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 891 Military-friendly Initiatives

SPONSOR(S): Education Committee, Local, Federal & Veterans Affairs Subcommittee, Ponder and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 620

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N, As CS	Renner	Miller
2) Education Committee	16 Y, 0 N, As CS	McAlarney	Hassell
3) State Affairs Committee	22 Y, 0 N	Renner	Williamson

SUMMARY ANALYSIS

The bill makes changes relating to military base buffering, conservation easements, and education pertaining to military personnel. Specifically, the bill:

- adds two military installations to a list of installations that may exchange certain information with local governments regarding compatibility of land development;
- provides that conservation easements, created for the purpose of preventing encroachment to military installations, survive property tax deed sales;
- requires a school district to consider a child a resident when his or her parent provides official military orders to the school district in advance of the family's relocation; and
- revises requirements for servicemembers and their families to be classified as Florida residents for tuition purposes.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Exchange of Information between Local Governments and Military Installations

Present Situation

Section 163.3175(2), F.S., identifies the major military installations that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others, and identifies the local governments proximate to these installations that are required to address compatibility of land development with military installations in their comprehensive plans.

Currently, there are 14 military installations that cooperate with local governments to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in Florida.¹

Each affected local government must transmit the following proposed comprehensive plan amendments, proposed land development regulations, and applications for development orders to the commanding officer of the relevant associated installation or installations:

- Information relating to proposed changes to the local government's comprehensive plan which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation;
- Information relating to proposed changes to land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation; and
- At the request of the commanding officer, copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or noise attenuation reduction requirements within areas defined in the local government's comprehensive plan as being in a zone of influence of the military installation.²

The commanding officer or his or her designee may provide advisory comments to the affected local government on the impact the proposed changes may have on the mission of the military installation.³ Likewise, the affected local government must take into consideration any comments and accompanying data and analyses provided by the commanding officer as they relate to the strategic mission of the base, public safety, and the economic vitality associated with the base's operations, while also respecting private property rights and not being unduly restrictive on those rights.⁴ Additionally, any comments regarding comprehensive plan amendments must be forwarded to the state land planning agency.⁵

Effect of Proposed Changes

The bill adds the following two military installations that may exchange certain information with local governments regarding compatibility of land development:

- Naval Support Activity Orlando, including Bugg Spring and Naval Ordnance Test Unit, associated with Orange County and Orlando; and
- United States Southern Command, associated with Miami-Dade County and Doral.

¹ See s. 163.3175(2)(a)-(n), F.S., which lists each affected military installation and its related communities.

² Section 163.3175(4), F.S.

³ Section 163.3175(5), F.S.

⁴ Section 163.3175(6), F.S.

⁵ *Id.*

Continuation of Easement for Certain Military Lands after a Tax Sale or Deed Execution

Present Situation

Current law provides that when any lands are sold for nonpayment of taxes, or any tax certificate is issued thereon by a governmental unit or agency or pursuant to any tax lien foreclosure proceeding, the title to the land must continue to be subject to any easement for conservation purposes or telephone, telegraph, pipeline, power transmission, or other public service purpose. Such land also must continue to be subject to any easement that supports improvements that may be constructed above the lands and any easement for purposes of drainage or of ingress and egress to and from other land.⁶

Effect of Proposed Changes

The bill provides that conservation easements created with the purpose of preventing encroachment to military installations survive property tax deed sales.

Assistance to Transitioning Students from Military Families

Present Situation

Children in active-duty military families face unique educational challenges. The average military child transfers to a different state or school district six to nine times during kindergarten through 12th grade. When a parent is reassigned, military children may be impacted by:⁷

- transfer of records;
- course sequencing;
- graduation requirements;
- exclusion from extracurricular activities;
- redundant or missed entrance/exit tests;
- kindergarten and first grade entrance age variations; and
- power of custodial parents while parents are deployed.⁸

The Interstate Compact on Educational Opportunity for Military Children (Compact) assists member states in uniformly addressing educational transition issues faced by active-duty military families. The Compact governs member states in several areas, including school placement, enrollment, records transfer, participation in academic programs and extracurricular activities, and graduation. The Compact was developed by the Council of State Governments, in cooperation with the U.S. Department of Defense (DoD).⁹

Additionally, the Legislature recognizes the challenges faced by military students and requires the Florida Department of Education (department) to assist in the transition of these students in military families by:¹⁰

- improving the timely transfer of records;
- developing systems to ease student transition during the first two weeks of enrollment;
- promoting practices which foster access to extracurricular programs;
- establishing procedures to lessen the adverse impact of moves;
- encouraging or continuing partnerships between the military base and the school system;

⁶ Section 197.572, F.S.

⁷ Council of State Governments, Interstate Compact on Educational Opportunity for Military Children, available at https://www.csg.org/programs/policyprograms/NCIC/interstatecompact_militarychildren_edop.aspx (last visited Feb. 19, 2019).

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 1003.05(1), F.S.

- providing services for transitioning students when applying to and finding funding for postsecondary study; and
- providing other assistance as identified by the department, school, and military personnel.

The department is further required to facilitate the development and implementation of memoranda of agreement between school districts and military installations, which address strategies for assisting students who are the children of active duty military personnel in the transition to Florida schools.¹¹

Finally, dependent children of active duty military personnel who otherwise meet the eligibility criteria for special academic programs¹² offered through public schools must be given first preference for admission to such programs even if the program is being offered through a public school other than the school to which the student would generally be assigned.¹³

According to DoD and the Department of the Navy, in some school districts in Florida, military families miss special program application deadlines because their Permanent Change of Station orders are not considered proof of residency. Consequently, the child may be relegated to a “D” or “F” school based on exceeded capacity at the actual time of arrival.¹⁴

Effect of Proposed Changes

For the purposes of kindergarten through grade 12 public school enrollment, the bill requires a school district to consider a child a resident when his or her parent provides official military orders to the school district in advance of the family’s relocation. The district must provide the child preferential treatment in the controlled open enrollment process as required under current Florida law.

Residency Status for Tuition Purposes

Present Situation

Florida law defines “tuition” as “the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state.”¹⁵ Students who are not classified as “residents for tuition purposes”¹⁶ are required to pay the full cost of instruction at a public postsecondary institution. This additional charge is known as the “out-of-state fee.”¹⁷ Institutions are authorized to provide exemptions and/or waivers¹⁸ of the out-of-state fee to students who meet specified criteria.

Current law provides 11 categories where individuals who meet certain criteria are automatically considered residents of Florida for tuition purposes.¹⁹ As it relates to service in the U.S. Armed Services, the following persons are considered residents for tuition purposes in Florida:

- active duty members of the U.S. Armed Services residing or stationed in Florida and their spouses and dependent children, and active drilling members of the Florida National Guard,²⁰ and

¹¹ Section 1003.05(2), F.S.

¹² Special academic programs include magnet schools, advanced studies programs, advanced placement, dual enrollment, Advanced International Certificate of Education, and International Baccalaureate. *See s. 1003.05(3), F.S.*

¹³ Section 1003.05(3), F.S.

¹⁴ Letter from Navy Region Southeast Commander, B. Bolivar, to Governor Rick Scott (Aug. 9, 2018). On file with Local, Federal & Veterans Affairs Subcommittee.

¹⁵ Section 1009.01(1), F.S.

¹⁶ Section 1009.21(1)(g), F.S.

¹⁷ Section 1009.01(2), F.S.

¹⁸ Sections 1009.25 and 1009.26, F.S.

¹⁹ Section 1009.21(10), F.S.

²⁰ Section 1009.21(10)(a), F.S.

- active duty members of the U.S. Armed Services and their spouses and dependents attending a public college or state university within 50 miles of the military establishment where they are stationed, if the military establishment is within a county contiguous to Florida.²¹

Effect of Proposed Changes

The bill provides that active duty members of the U.S. Armed Services and their spouses and dependent children are classified as residents for tuition purposes if they reside or are stationed in Florida at the time of acceptance to a public college or state university.

The bill also provides that active duty members of the U.S. Armed Services and their spouses and dependents attending a public college or state university within 50 miles of the military establishment where they are stationed are classified as residents for tuition purposes at the time of acceptance to a public college or state university if the military establishment is within a county contiguous to Florida.

Under the bill, a student who qualifies for in-state tuition at a Florida university or college at the time of acceptance into the university or college will continue to qualify for in-state tuition even if the servicemember receives orders to move before the dependent enrolls in the university or college.

B. SECTION DIRECTORY:

Section 1 amends s. 163.3175, F.S., relating to exchange of information between local governments and military installations.

Section 2 amends s. 197.572, F.S., relating to easements for conservation purposes, public service purposes, support of certain improvements, or drainage or ingress and egress survive tax sales and deeds.

Section 3 amends s. 1003.05, F.S., relating to assistance to transitioning students from military families.

Section 4 amends s. 1009.21, F.S., relating to determination of resident status for tuition purposes.

Section 5 provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

²¹ Section 1009.21(10)(b), F.S.
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DATE: 4/18/2019

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2019, the Local, Federal & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differs from the original bill in that the PCS does not include provisions relating to military personnel housing, defense grants, or rural-lands-protection easements. The PCS does the following:

- Adds two military installations to a list of installations that may exchange certain information with local governments regarding compatibility of land development;
- Provides that conservation easements that are created with the purpose of preventing encroachment to military installations, survive property tax deed sales;
- Requires school districts to accept permanent change of station orders as proof of residency of dependent children for admission to district programs; and
- Revises requirements for active duty servicemembers and their families to be classified as residents for tuition purposes by specifying that they be considered residents at the time of acceptance to a public college or state university.

On April 3, 2019, the Education Committee adopted one amendment and reported the bill favorably as a committee substitute. For the purposes of kindergarten through grade 12 public school enrollment, the amendment requires a school district to consider a child a resident when his or her parent provides official military orders to the school district in advance of the family's relocation. The district must provide the child preferential treatment in the controlled open enrollment process as required under current Florida law.

The bill analysis is drafted to the committee substitute as approved by the Education Committee.