

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: CS/CS/HB 891 Military-friendly Initiatives
SPONSOR(S): Education Committee; Local, Federal & Veterans Affairs Subcommittee; Ponder and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 620

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 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
FINAL HOUSE FLOOR ACTION: GOVERNOR'S ACTION: Approved			
113	Y's 0	N's	

SUMMARY ANALYSIS

CS/CS/HB 891 passed the House on May 1, 2019, as CS/CS/SB 620.

The bill makes changes relating to military base buffering, conservation easements, specialty license plates, 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;
- directs the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a Blue Angels license plate;
- 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.

According to the DHSMV, the bill will have a negative, though likely insignificant, fiscal impact associated with the programming effort required for the specialty license plate. The bill does not appear to have a fiscal impact on local governments.

The bill was approved by the Governor on June 26, 2019, ch. 2019-144, L.O.F., and will become effective on July 1, 2019.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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 the Bill

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 Ordinance 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 the Bill

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

Blue Angels Specialty License Plate

Present Situation

Requirements for Establishing Specialty License Plates

Section 320.08053, F.S., provides the statutory requirements to establish a specialty license plate. If a specialty license plate requested by an organization is approved by law, the organization submits its proposed art design to the Department of Highway Safety and Motor Vehicles (DHSMV) as soon as practicable, but no later than 60 days after the act approving such plate becomes a law.⁷

Within 120 days following the specialty license plate becoming law, DHSMV establishes a method to issue a specialty license plate voucher allowing for the presale of such plate. The \$5 processing fee,⁸ the service charge and branch fee,⁹ and the annual use fee for the specialty license plate¹⁰ are charged for the voucher. All other applicable fees are charged at the time the license plate is issued.¹¹

Within 24 months after establishing a presale specialty license plate voucher, the approved specialty license plate must record with DHSMV a minimum of 1,000 voucher sales before the license plate may be manufactured. If, at the conclusion of the 24-month presale period, the minimum sales requirement is not met, the specialty license plate is deauthorized and DHSMV discontinues the plate's development and the issuance of the presale vouchers. Upon deauthorization of the specialty license plate, a purchaser of the specialty license plate voucher may use the annual use fee collected as a credit towards any other specialty license plate or apply to DHSMV for a refund.¹²

⁶ Section 197.572, F.S.

⁷ Section 320.08053(1), F.S.

⁸ The processing fee is prescribed in s. 320.08056, F.S.

⁹ Service charges and branch fees are prescribed in s. 320.04, F.S.

¹⁰ The annual use fees for each specialty license plate are prescribed in s. 320.8056, F.S.

¹¹ Section 320.08053(2)(a), F.S.

¹² Section 320.08053(2)(b), F.S.

Specialty License Plates, Generally

DHSMV is responsible for developing specialty license plates authorized in s. 320.08053, F.S.¹³ DHSMV must issue a specialty license plate to the owner or lessee of any motor vehicle, except a vehicle registered under the International Registration Plan, a commercial truck required to display two license plates, or a truck tractor, upon request and payment of the appropriate license tax and fees.¹⁴

Each request for a specialty license plate must be made annually to DHSMV or its authorized agent¹⁵ accompanied by the vehicle's required license tax,¹⁶ a processing fee of \$5,¹⁷ a license plate fee,¹⁸ and a license plate annual use fee as required for the specialty license plate.¹⁹

A request for a specialty license plate may be made any time during a vehicle's registration period. If a request is made for a specialty license plate to replace a current valid license plate, the specialty license plate must be issued with the appropriate decals attached with no license tax for the plate; however, all fees and service charges must be paid. If a request is made for a specialty license plate at the beginning of the registration period, the tax, together with all applicable fees and service charges, must be paid.

If a vehicle owner or lessee to whom DHSMV has issued a specialty license plate acquires a replacement vehicle within the owner's registration period, DHSMV authorizes a transfer of the specialty license plate to the replacement vehicle.²⁰ The annual use fee or processing fee may not be refunded.²¹

Specialty license plates must bear the design required by law for the appropriate specialty license plate and must conform to DHSMV's design specifications. All specialty license plates must be the same material and size as standard license plates issued for any registration period and may bear an appropriate slogan, emblem, or logo in a size and placement that conforms to DHSMV's design specifications.²²

DHSMV annually retains from the first proceeds derived from the annual use fees collected an amount sufficient to defray each specialty license plate's pro rata share of DHSMV's costs directly related to the specialty license plate program. Such costs include inventory costs, distribution costs, direct costs to DHSMV, costs associated with reviewing each organization's compliance with audit and attestation requirements,²³ and any applicable increased costs of manufacturing the specialty license plate. The Department of Management Services must verify any cost increase to DHSMV related to the actual cost of the plate, including a reasonable vendor profit. The balance of the proceeds from the annual use fees collected for that specialty license plate are distributed as provided by law.²⁴

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty license plate registrations falls below 1,000 plates for at least 12 consecutive months. A

¹³ Section 320.08056(1), F.S.

¹⁴ Section 320.08056(2), F.S.

¹⁵ DHSMV's authorized agents are the county tax collectors.

¹⁶ Motor vehicle license taxes are set forth in s. 320.08, F.S.

¹⁷ The \$5 processing fee is deposited into the Highway Safety Operating Trust Fund.

¹⁸ Section 320.06(1)(b), F.S., provides for a \$2.80 annual license plate replacement fee to defray the cost of replacing the license plate every 10 years.

¹⁹ Section 320.08056(3), F.S.

²⁰ This is in accordance with s. 320.0609, F.S.

²¹ Section 320.08056(5), F.S.

²² Section 320.08056(6), F.S.

²³ Specialty license plate audit and attestations requirements are in s. 320.08062, F.S.

²⁴ Section 320.08056(7), F.S.

warning letter is mailed to the sponsoring organization following the first month in which the total number of registrations falls below 1,000 plates. This does not apply to collegiate license plates.^{25, 26}

DHSMV may discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, if the organization has stopped providing services authorized to be funded from the annual use fee proceeds, if the organization does not meet the presale requirements,²⁷ or pursuant to an organizational recipient's request. Organizations must notify DHSMV immediately to stop all warrants for plate sales if any of these conditions exist and must meet certain audit and attestation requirements for any period of operation during a fiscal year.²⁸

The organization that requested the specialty license plate may not redesign the specialty license plate unless the inventory of those plates has been depleted. However, the organization may purchase the remaining inventory of the specialty license plate from DHSMV at cost.²⁹

A specialty license plate annual use fee collected and distributed, or any interest earned from those fees, may not be used for commercial or for-profit activities or for general or administrative expenses (except as authorized by law), and may not be used to pay the cost of the required audit or report. The fees and any interest earned may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates.³⁰

The term "administrative expenses" means those expenditures considered direct operating costs of the organization, and include, but are not limited to:

- Administrative salaries of employees and officers of the organization who do not or cannot prove, via detailed daily time sheets that they actively participate in program activities.
- Bookkeeping and support services of the organization.
- Office supplies and equipment not directly utilized for the specified program.
- Travel time, per diem, mileage reimbursement, and lodging expenses not directly associated with a specified program purpose.
- Paper, printing, envelopes, and postage not directly associated with a specified program purpose.
- Miscellaneous expenses such as food, beverage, entertainment, and conventions.³¹

The annual use fee from the sale of specialty license plates, the interest earned from those fees, or any fees received by an agency as a result of the sale of specialty license plates may not be used for the purpose of marketing to or lobbying, entertaining, or rewarding an employee of a governmental agency responsible for the sale and distribution of specialty license plates, or an elected member or employee of the Legislature.³²

The application form for a specialty license plate must provide the applicant the option to instruct DHSMV to provide his or her name, address, and renewal date to the sponsoring organization.³³

²⁵ Collegiate license plates are established under s. 320.08058(3), F.S.

²⁶ Section 320.08056(8)(a), F.S.

²⁷ Presale requirements are prescribed in s. 320.08053, F.S.

²⁸ Section 320.08056(8)(b), F.S.

²⁹ Section 320.08056(9), F.S.

³⁰ Section 320.08056(10)(a), F.S.

³¹ Section 320.08056(10)(b), F.S.

³² Section 320.08056(11), F.S.

³³ Section 320.08056(12), F.S.

Blue Angels

At the end of World War II, Chief of Naval Operations Admiral Chester W. Nimitz ordered the formation of a flight demonstration team to keep the public interested in naval aviation. Within three months, the Navy Flight Exhibition Team performed its first flight demonstration on June 15, 1946, at their home base, Naval Air Station (NAS) Jacksonville, Florida. Lt. Commander Roy “Butch” Voris led the team and flew the Grumman F6F-5 Hellcat.³⁴

The new Navy Flight Exhibition team was only the second formal flying demonstration team to have been created in the world. The team was introduced as the “Blue Angels” at a show in Omaha, Nebraska in July 1946. Right Wing Pilot Lt. Maurice “Wick” Wickendoll came across the name in the New Yorker Magazine in a column called Goings On About Town. Voris said, “That sounds great! The Blue Angels. Navy, Blue, and Flying!”³⁵

Today, 16 officers voluntarily serve with the Blue Angels. Each year the team typically selects three tactical (fighter or fighter/attack) jet pilots, two support officers, and one Marine Corps C-130 pilot to relieve departing members.³⁶ Since 1946, the Blue Angels have performed for nearly 500 million fans.³⁷

Effect of the Bill

The bill creates the Blue Angels specialty license plate, bearing the DHSMV-approved colors and design. The word “Florida” will appear at the top of the plate and “Home of the Blue Angels” will appear at the bottom of the plate. However, the development of the plate is contingent upon the enactment of legislation creating an annual use fee for the plate. If authorized, the annual use fees will be distributed to the Naval Aviation Museum Foundation to fund the maintenance, programs, marketing, and projects of the foundation, including the National Naval Aviation Museum and the National Flight Academy in Pensacola, as follows:

- Up to 10 percent of the proceeds may be used for marketing the plate and costs directly associated with the administration of the foundation;
- Fifty percent of the proceeds must be distributed to eligible programs and projects associated with the National Flight Academy; and
- All remaining proceeds must be distributed to eligible programs and projects associated with the National Naval Aviation Museum.

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:³⁸

- transfer of records;
- course sequencing;
- graduation requirements;
- exclusion from extracurricular activities;
- redundant or missed entrance/exit tests;

³⁴ U.S. Navy Blue Angels, *History of the Blue Angels*, <https://www.blueangels.navy.mil/history/> (last visited April 15, 2019).

³⁵ *Id.*

³⁶ U.S. Navy Blue Angels, *The 2019 Blue Angels Team*, <https://www.blueangels.navy.mil/team/> (last visited April 15, 2019).

³⁷ U.S. Navy Blue Angels, *History of the Blue Angels*.

³⁸ 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).

- kindergarten and first grade entrance age variations; and
- power of custodial parents while parents are deployed.³⁹

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).⁴⁰

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:⁴¹

- 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;
- 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.⁴²

Finally, dependent children of active duty military personnel who otherwise meet the eligibility criteria for special academic programs⁴³ 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.⁴⁴

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.⁴⁵

Effect of the Bill

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.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 1003.05(1), F.S.

⁴² Section 1003.05(2), F.S.

⁴³ 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.*

⁴⁴ Section 1003.05(3), F.S.

⁴⁵ Letter from Navy Region Southeast Commander, B. Bolivar, to Governor Rick Scott (Aug. 9, 2018). On file with the Local, Federal & Veterans Affairs Subcommittee.

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.”⁴⁶ Students who are not classified as “residents for tuition purposes”⁴⁷ 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.”⁴⁸ Institutions are authorized to provide exemptions and/or waivers⁴⁹ 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.⁵⁰ 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,⁵¹ and
- 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.⁵²

Effect of the Bill

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.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁴⁶ Section 1009.01(1), F.S.

⁴⁷ Section 1009.21(1)(g), F.S.

⁴⁸ Section 1009.01(2), F.S.

⁴⁹ Sections 1009.25 and 1009.26, F.S.

⁵⁰ Section 1009.21(10), F.S.

⁵¹ Section 1009.21(10)(a), F.S.

⁵² Section 1009.21(10)(b), F.S.

2. Expenditures:

According to DHSMV, the creation of specialty license plates requires system programming to implement. Depending on the number of distributions tied to the plate, the amount of programming may vary as will the resources needed to complete the changes. The average specialty license plate with a single distribution requires approximately 200-250 hours of programming, at a rate of \$35 to \$40 per hour.⁵³ Additional distributions generally require an additional five to 10 hours per distribution. The negative fiscal impact associated with DHSMV's programming efforts is indeterminate, but likely insignificant, and can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Organizations receiving specialty license plate revenue may experience additional revenues associated with the sale of such plates.

D. FISCAL COMMENTS:

None.

⁵³ Email from Kevin Jacobs, Deputy Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles., RE., HBs 273/275 and 199/201, (January 24, 2019). On file with the Local, Federal & Veterans Affairs Subcommittee.