

By Senator Collins

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1 A bill to be entitled
2 An act relating to the Florida State Guard; amending
3 s. 251.001, F.S.; providing that the Florida State
4 Guard is composed of volunteers instead of members;
5 defining terms; requiring the Governor to commission
6 all officers of the Florida State Guard; requiring
7 applicants to submit a full set of fingerprints to a
8 specified entity; requiring such entity to forward
9 such fingerprints to the Department of Law Enforcement
10 for a specified purpose; requiring the department to
11 forward such fingerprints to the Federal Bureau of
12 Investigation for a specified purpose; requiring the
13 Florida State Guard to pay the fees for processing and
14 retaining such fingerprints; requiring that any arrest
15 record identified be reported to the Division of the
16 State Guard; deleting a provision requiring that
17 certain applicants be subject to certain standards;
18 deleting a requirement that all training programs for
19 the Florida State Guard be equivalent to a certain
20 training; authorizing the director of the Florida
21 State Guard to order volunteers to duty for specified
22 purposes in certain circumstances; revising the
23 conditions during which the Governor may activate the
24 Florida State Guard; authorizing, rather than
25 requiring, the division to reimburse volunteers for
26 certain expenses; revising the protections that apply
27 to volunteers; providing that, upon the request of a
28 Florida State Guard volunteer, the Department of Legal
29 Affairs may defend the volunteer in any action or

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30 proceeding for any act that occurred during the
31 volunteer's scope of duty; providing construction;
32 authorizing the ordering of such defendant to full
33 active duty with full active duty compensation for a
34 specified duration; providing that, if a plaintiff
35 dismisses the suit or if a verdict or judgment finds
36 in the defendant's favor, the court must award
37 attorney fees and costs to such defendant; making
38 technical changes; providing an effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Subsections (2) and (4) through (10) of section
43 251.001, Florida Statutes, are amended to read:

44 251.001 Florida State Guard Act.—

45 (2) CREATION AND AUTHORIZATION.—The Florida State Guard is
46 created to protect and defend the people of Florida from all
47 threats to public safety and to augment all existing state and
48 local agencies. The Florida State Guard is created as authorized
49 under federal law for use ~~exclusively~~ within this the state,
50 activated only by the Governor, and is at all times under the
51 final command and control of the Governor as commander in chief
52 of all military and guard forces of the state. The Florida State
53 Guard may ~~shall~~ be used ~~exclusively~~ within the state, or to
54 provide support to other states, only for the purposes stated in
55 this section and may not be called, ordered, or drafted into the
56 Armed Forces of the United States. The authorized maximum number
57 of volunteer personnel that may be commissioned, enrolled, or
58 employed as volunteers ~~members~~ of the Florida State Guard is

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59 1,500.

60 (4) DEFINITIONS.—As used in this section:

61 (a) The terms “active duty,” “armed forces,” and “National
62 Guard” have the same meanings as in s. 250.01.

63 (b) The term “department” means the Department of Military
64 Affairs.

65 (c) The term “director” means the director of the Division
66 of the State Guard.

67 (d) The term “division” means the Division of the State
68 Guard within the Department of Military Affairs.

69 (e) The term “enlisted volunteer” means a volunteer who has
70 been approved by the director to serve in the Florida State
71 Guard.

72 (f) The term “officer” means an enlisted volunteer who, due
73 to special trust and confidence, is commissioned by the Governor
74 as an officer of the Florida State Guard.

75 (g) The term “volunteer” means an officer or enlisted
76 volunteer.

77 (5) PERSONNEL.—

78 (a) Subject to approval by the Governor, the director shall
79 determine the number of volunteers ~~volunteer personnel~~ necessary
80 to meet the staffing and operational requirements of the Florida
81 State Guard, and determine the volunteer structure and number of
82 volunteers ~~volunteer personnel~~ within each component unit of
83 such structure.

84 (b) The Governor shall commission all officers ~~volunteer~~
85 ~~personnel~~ of the Florida State Guard.

86 (c) Each applicant for the Florida State Guard shall meet
87 the following qualifications:

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88 1. The applicant must be a citizen of the United States and
89 a resident of this ~~the~~ state.

90 2. The applicant may not have a felony conviction. An
91 applicant must submit a full set of fingerprints to the
92 division, vendor, entity, or agency authorized under s.
93 943.053(13). The division, vendor, entity, or agency shall
94 forward the fingerprints to the Department of Law Enforcement
95 for state processing, and the Department of Law Enforcement
96 shall forward the fingerprints to the Federal Bureau of
97 Investigation for a national criminal history check. The Florida
98 State Guard shall pay the fees for state and federal fingerprint
99 processing and retention. The state cost for fingerprint
100 processing is as provided in s. 943.053(3) (e), including
101 enrollment in the Federal Bureau of Investigation's national
102 retained fingerprint arrest notification program. Any arrest
103 record identified must be reported to the division ~~Each~~
104 ~~applicant shall submit a complete set of fingerprints and all~~
105 ~~information required by state and federal law to process~~
106 ~~fingerprints for purposes of conducting a criminal background~~
107 ~~check.~~

108 3. The applicant may not be an active duty servicemember, a
109 member of the armed forces reserves, or a member of the Florida
110 National Guard.

111 4. If the applicant is a former member of the armed forces
112 or of any military or naval organization of this state or
113 another state, the applicant must have been separated under
114 terms no less than a general discharge under honorable
115 conditions.

116 (d) The director shall establish minimum standards for the

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117 age, physical and health condition, and physical fitness of
118 applicants based upon the component unit of the Florida State
119 Guard structure in which the applicant is being considered for
120 placement. ~~However, an applicant being considered for placement~~
121 ~~in a component unit that serves in an active duty capacity~~
122 ~~within the Florida State Guard must be subject to standards that~~
123 ~~are no less than the standards required for recruitment,~~
124 ~~enrollment, and retention in the Florida National Guard.~~

125 (e) The director shall develop and implement a code of
126 regulations for the administration and discipline of volunteers
127 ~~members~~ of the Florida State Guard which provides ~~that shall~~
128 ~~provide~~ no less protection and imposes ~~impose~~ no more severe
129 sanctions than as provided in s. 250.35, except that the
130 director does ~~shall~~ not have authority to impose any term of
131 incarceration.

132 (6) SPECIALIZED UNIT.—The director shall organize a
133 specialized unit within the Florida State Guard. All volunteers
134 ~~members~~ of the specialized unit are vested with the authority to
135 bear arms, detect, and apprehend while activated. In addition to
136 the requirements set forth in paragraph (5)(c), only those
137 volunteers ~~members~~ of the specialized unit who meet the
138 requirements in s. 943.13 and are certified as law enforcement
139 officers as defined in s. 943.10(1) are authorized to have the
140 same law enforcement authority as the law enforcement agency in
141 conjunction with which they are working when activated.

142 (7) TRAINING AND EQUIPMENT.—The director shall develop and
143 implement a program for training for volunteers ~~members~~ of the
144 Florida State Guard.

145 (a) ~~All training programs for the Florida State Guard shall~~

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146 ~~be at least equivalent to the training requirements for members~~
147 ~~of the Florida National Guard under applicable federal law at~~
148 ~~the time the training is conducted.~~ As required by the director,
149 all volunteers ~~members~~ of the Florida State Guard must ~~shall~~
150 complete initial training within 180 days after their
151 appointment or enrollment and periodic ongoing training.

152 (b) The director may provide for staff to prepare and
153 conduct training required in this section. The staff may include
154 members of the Florida National Guard whose duty assignments may
155 include conducting training under this section but who may not
156 be considered volunteers ~~members~~ of the Florida State Guard.

157 (c) The division shall provide all equipment necessary for
158 the training and service of volunteers ~~members~~ of the Florida
159 State Guard and shall arrange and contract for the use of
160 sufficient and adequate facilities for training, organizing, and
161 all other purposes of the Florida State Guard. Section 250.44
162 applies to the allocation, delegation, use of, and accounting
163 for all equipment furnished under this section.

164 (d) The director may order volunteers of the Florida State
165 Guard to duty for purposes of training and administrative duty,
166 subject to annual appropriations when not activated by order of
167 the Governor.

168 (8) ACTIVATION AND DEACTIVATION OF THE FLORIDA STATE
169 GUARD.—

170 (a) The Florida State Guard, by component units or in
171 total, may be activated by order of the Governor:

172 1. During a declared state of emergency, period of civil
173 unrest, or any other time deemed necessary and appropriate,
174 which order must be by written communication to the Director of

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175 ~~the Florida State Guard any period when any part of the Florida~~
176 ~~National Guard is in active federal service and the Governor has~~
177 ~~declared a state of emergency;~~

178 2. To preserve the public peace, execute the laws of the
179 state, enhance domestic security, respond to terrorist threats
180 or attacks, protect and defend the people of Florida from
181 threats to public safety, respond to an emergency as defined in
182 s. 252.34 or imminent danger thereof, or respond to any need for
183 emergency aid to civil authorities as specified in s. 252.38;

184 3. To augment any existing state or local agency; or

185 4. To provide support to other states under the Emergency
186 Management Assistance Compact as provided for in part III of
187 chapter 252.

188 (b) The Florida State Guard may only ~~shall~~ be deactivated
189 by the expiration of the order of activation or by a separate
190 order by the Governor deactivating the Florida State Guard.

191 (9) REIMBURSEMENT AND COMPENSATION.—

192 (a) The division may ~~shall~~ reimburse volunteers ~~members~~ of
193 the Florida State Guard for per diem and travel expenses
194 incurred to attend required training or in the course of active
195 service as provided in s. 112.061.

196 (b) Volunteers ~~Members~~ of the Florida State Guard may be
197 compensated for time spent training or in the course of active
198 service at rates established by the director, subject to
199 appropriation.

200 (c) A volunteer ~~member~~ of the Florida State Guard may not
201 make any purchase or enter into any contract or agreement for
202 purchases or services as a charge against the state without the
203 authority of the director.

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204 (10) EMPLOYMENT PROTECTION, SUSPENSION OF PROCEEDINGS,
205 LIABILITY, AND WORKERS' COMPENSATION.—

206 (a) The protections for members of the Florida National
207 Guard provided in ss. 115.07, 250.48-250.483, and 250.5201-
208 250.5205 apply to each volunteer ~~member~~ of the Florida State
209 Guard engaged in required training or active service.

210 (b) Volunteers ~~Members~~ of the Florida State Guard ordered
211 into active service or engaged in required training are not
212 liable for any lawful act done in performance of their duties
213 under this section while acting in good faith within the scope
214 of those duties.

215 (c) In any action or proceeding of any nature, civil or
216 criminal, commenced in any court by any person or by the state
217 against any volunteer of the Florida State Guard for any act
218 occurring in that volunteer's scope of duty, the defendant in
219 such action or proceeding may, upon his or her request, be
220 defended at the expense of the state by a qualified attorney
221 designated by the Department of Legal Affairs. However, this
222 section does not prohibit such defendant from employing his or
223 her own private counsel at the defendant's own expense.

224 1. A defendant may be ordered to state active duty with
225 full active duty compensation for the time his or her presence
226 is required in defense of such actions or proceedings.

227 2. In any such action or proceeding, if the plaintiff
228 dismisses his or her suit or a verdict or judgment in favor of
229 the defendant is entered, the court must award costs and
230 reasonable attorney fees incurred by the state and the defendant
231 in the defense of such action or proceeding.

232 (d) While activated or in training, volunteers ~~members~~ of

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233 the Florida State Guard are considered volunteers for the state,
234 as defined in s. 440.02(18)(d)6., and are entitled to workers'
235 compensation protections pursuant to chapter 440.

236 Section 2. This act shall take effect July 1, 2024.