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Committee on Comprehensive Planning, Local and Military Affairs Senator James E. "Jim" King, Jr., President

REVIEW OF CHAPTER 250, F.S., MILITARY AFFAIRS AND RELATED MATTERS

SUMMARY

The staff of the Department of Military Affairs, the House of Representatives Committee on Local Government and Veterans Affairs, and the Senate Committee on Comprehensive Planning, Local and Military Affairs have reviewed chapter 250, F.S., and recommend the following changes:

- Clarify and expand the authority of the Governor and the Adjutant General;
- Expand workers' compensation coverage to state-activated troops with long-term injuries or disabilities;
- Strengthen health benefit, job protection, and property rights of guard members activated for state duty;
- Clarify or modify provisions related to the Armory Board, education programs, courts-martial, and accounting procedures;
- Statutorily reference two trust funds in current use by the department, and rename an existing trust fund;
- Add or modify definitions and insure their consistent use throughout the chapter;
- Resolve internal inconsistencies in ch. 250, F.S., modify chapter provisions to conform with federal law, correct cites to state or federal law, and clarify vague provisions; and
- Replace or delete obsolete and redundant provisions.

BACKGROUND

The Militia

Article X, s. 2(a) of the State Constitution creates the state militia, which is "composed of all able-bodied inhabitants of the state who are or have declared their intention to become citizens of the United States..."

The militia is founded on the idea that "all able bodied men in a society are liable for military service in an

emergency to protect that society."¹ Early in our nation's development, state militias served an important role - frequently in concert with the professional armed forces - in securing the population's safety and our nation's freedom from foreign powers. Today, the various State National Guards constitute the "organized" militia.

Historically, militias were under the authority of their respective state or territorial governments. However, Article I, Section 8 of the U.S. Constitution grants Congress the authority:

- To provide for calling forth the Militia to execute the Laws of the Union, suppress insurrections and repel invasions; and
- To provide for organizing, arming, and disciplining the Militia, and for governing such part of them as may be employed in the Service of the United States, reserving to the States, respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.

The U.S. Constitution prohibits states from keeping a standing army without the consent of Congress.²

The State National Guards are governed by the concurrent laws of the federal and respective state governments.³ All provisions of federal law which relate to the National Guards, and which are not inconsistent with the state constitutions, are part of the military laws of the respective states.

Section 250.02, F.S., segregates the militia into two general categories:

¹ Robert Hawk, *Florida's Army: Militia, State Troops, National Guard*, p. 3. Englewood, FL.: Pineapple Press, 1986.

² Article I, Section 10 (3), of the US Constitution.

³ see Titles 32 and 10, U.S.C.A.

- The unorganized militia, which is composed of all persons subject to military duty, but who are not members of units of the organized militia; and
- The organized militia, which is composed of the National Guard and such other organized military forces as are now or may be authorized by law.

The “Unorganized” Militia

From its early history, Florida had an “enrolled” or mass militia, consisting of an unorganized and untrained ‘pool’ of able-bodied men of the state. As was the experience in other states, the militia was primarily used locally and before the development of either volunteer militias or organized state guard units. Historically, this “great body of armed citizenry” constituted a reservoir of manpower for the regular army and for the National Guard.⁴

In addition to the enrolled militia, local communities in Florida organized volunteer militia units, legally part of the enrolled militia, who met and trained on a semi-regular basis. This volunteer militia evolved into the Florida National Guard.⁵

The Florida State Defense Force

The Florida State Defense Force (initially named the Florida Defense Force, and renamed the Florida State Guard) was created in 1941. Section 251.01, F.S., stipulates that it be composed of “officers commissioned or assigned, and such able-bodied citizens of the state as shall volunteer for service therein...”

By January 1941, all Florida National Guard units had been federalized. In response, the Legislature established the Florida Defense Force, under the State’s Adjutant General, to assume the function and status of the National Guard within the state.⁶ It maintained the state’s armories and engaged in training programs to prepare volunteers for state service. It had an average strength of 2,000, and more than 11,000 served between 1941 and 1946. They were officially activated 7 times, either in response to hurricanes or to protect prisoners from mobs. The federal government provided surplus weapons and equipment, while the Legislature provided funding for uniforms and

equipment, staffing necessary for administration, and limited funds for active duty pay. However, volunteers were not paid for drilling and training.

The Florida State Defense Force was de-activated when the Florida National Guard units returned after the war.

The Florida National Guard

The Florida National Guard (FNG) is the state’s modern “organized” militia. The FNG is composed of

“...members of the militia enlisted therein and of commissioned officers and warrant officers who are citizens of the United States, organized, armed, equipped, and federally recognized, in accordance with the laws of the state and the laws and regulations of the Department of the Army and the Department of the Air Force.”⁷

The FNG is an essential reserve component of the national defense force.⁸ Its organization, arms and training correspond to that of the federal military. The National Guard Bureau of the Department of Defense (DOD) determines the number of units and positions for the FNG, consistent with the force structure requirements of DOD’s overall national military strategy.

The FNG is also the governor’s primary military force to “preserve the public peace, execute the laws of the state, suppress insurrection, or repel invasion.”⁹ Over its history, the Governor has mobilized the FNG primarily in response to natural disasters. In 2001, more than 300 troops from various FNG units were activated to assist the Florida Division of Forestry with fire suppression missions.¹⁰ That year the FNG was also activated to prepare for potential response missions during Hurricane Michelle and Tropical Storm Gabrielle.¹¹

In response to recent national security threats, the FNG was activated to provide security for Florida’s seaports, airports, and nuclear energy facilities. Members of the 44th Weapons of Mass Destruction-Civil Support Team mobilized to support of local emergency operations at the anthrax-tainted American Media building in Boca

⁴ James B. Whisker, *The Rise and Decline of the American Militia System*, p. 370. NJ: Associated University Press, 1999.

⁵ Hawk, p. 5.

⁶ Hawk, p. 162 – 166.

⁷ Section 250.07, F.S.

⁸ 10 U.S.C.A., s. 261.

⁹ Art. IV, s. 1 of the State Constitution.

¹⁰ DMA, *The Adjutant General’s Report*, FY 2001, p. 14.

¹¹ *Ibid*, p. 15.

Raton.¹² FNG units were deployed to Afghanistan. In addition, the FNG joined with state law enforcement agencies on the Florida Anti-Terrorism Task Force and several different Regional Anti-Terrorism Task Forces.¹³

There are currently more than 13,000 troops serving in more than 100 air force and army units of the FNG.¹⁴ Headquarters for the FNG is located in St. Augustine, Florida. The FNG's primary training facility is Camp Blanding in Clay County. The FNG also maintains 60 armories throughout the state.¹⁵

The Florida Department of Military Affairs

The Florida Department of Military Affairs (DMA, or department) is the state agency responsible for management, oversight and administrative support to the FNG. While the Governor is the Commander-in-Chief of the FNG, the adjutant general is the agency head of DMA, as well as the Commanding General of the Florida Army and Air National Guard. The department is staffed with both state and federal employees.¹⁶

In addition to functioning as the 'state militia' and operating as a component of the national defense force, DMA also performs drug interdiction operations with the U.S. Customs Service. Troops assist in searching incoming vessel cargo and provide aerial electronic detection of drug smugglers.¹⁷ DMA also provides military support to drug law enforcement agencies and community based organizations to help reduce the availability and demand for illegal drugs within the state.¹⁸ In 2000, DMA personnel were directly involved with the seizure of more than \$818 million in illegal narcotics, property and weapons.¹⁹

DMA also provides counter-drug training for law enforcement agencies. In 2000, 808 law enforcement agents and community leaders were provided training at the department's Camp Blanding facility. DMA partnered with St. Petersburg College to offer the Multi-jurisdictional Counter-drug Task Force Training to

approximately 29,000 agents from 1,992 different law enforcement agencies nationwide.²⁰

Through state and federal grants, DMA also operates a number of social service programs at Camp Blanding and in its armories throughout the state. These programs include:

- The Drug Demand Reduction Program, which supports other organizations' efforts to reduce the use of drugs, alcohol, and tobacco by youths; annually, this program reaches over 46,000 students in more than 262 schools throughout the state.²¹
- About Face, a program in partnership with the Florida Department of Children and Families, that teaches life skills to economically disadvantaged youths; since 1997, 6,415 participants have successfully completed the program.²²
- Forward March, a program in partnership with the Florida Department of Children and Families, that teaches life skills and job readiness to unemployed and underemployed adults; in 2001, there were 615 graduates, with a 63% job placement rate.²³
- Youth Challenge, a five-and-a-half month military-based residential program that teaches values, life skills, and self-discipline to targeted youths; there are two classes per year with approximately 100 students in each class.²⁴

Funding DMA

DMA is funded by the federal and state governments. Funding for the program is an estimated \$350 million for fiscal year 2002-03. An estimated \$300 million is paid directly by the federal government²⁵ and \$50.2 million is appropriated by the state.²⁶ Of the state appropriation, \$33.2 million comes from federal sources, \$14.9 million from state general revenue, and \$2.1 million from revenue generated from operations at Camp Blanding.

¹² Ibid, p. 10.

¹³ Ibid, p. 14.

¹⁴ Ibid, p. 6.

¹⁵ OPPAGA Justification Review – Rep. No.01-59, p. 16.

¹⁶ <http://www.oppaga.state.fl.us/profiles/4109/>

¹⁷ OPPAGA Justification Review – Report No.01-59, p. 2.

¹⁸ DMA, *The Adjutant General's Report*, FY 2001, p. 19.

¹⁹ Ibid, p. 19.

²⁰ Ibid, p. 19.

²¹ Ibid, p. 16.

²² Ibid, p. 17.

²³ Ibid, p. 16.

²⁴ Ibid, p. 17.

²⁵ Official federal budget figures will not be available until January, 2003. However, this estimated figure is represents a 23% increase from the previous year.

²⁶ See line items 2915 – 2943, s. 6, ch. 2002-394, L.O.F.

Recent OPPAGA Justification Review

In November 2001, the Office of Policy Analysis and Government Accountability (OPPAGA) issued a “Justification Review” of DMA. The report recommended that DMA develop a long-term capital plan that co-locates units in new armories; and that the Governor “designate a staff member of the Office of Policy and Budgeting to work with the Armory Board in this process.”²⁷

METHODOLOGY

With assistance from the staffs of Department of Military Affairs and the House of Representatives’ Committee on Local Government and Veterans Affairs, Senate committee staff reviewed chapter 250, F.S., to identify internal inconsistencies and inconsistencies with federal law and rules. In addition, we evaluated requests made by DMA to address workers’ compensation issues related to guard members; to strengthen job protection rights of guard members activated for state duty; and to increase penalties for infractions specified in ch. 250, F.S.

FINDINGS**Governor’s Authority Over DMA**

Section 250.06, F.S., implements, in part, state constitutional provisions which establish the state ‘militia’ and designates the Governor as the commander-in-chief of all military forces of the state not in active service of the federal government.²⁸ Subsection (3) grants the Governor broad powers related to his duties as commander-in-chief. In part in response to the recent threats to state and national security, the department requested this subsection be clarified to:

- Grant the Governor explicit authority to respond to terrorist threats or attacks or to enhance domestic security;
- Authorize the Guard to participate in military ceremonies and inspections related to troops and facilities; and
- Authorize training of the troops.

Currently, only the Governor has the authority to convene general courts-martial. DMA requested the Governor be granted explicit authority to delegate this authority to the Adjutant General, as is permitted under federal law.²⁹

Adjutant General’s Authority Over DMA

Various provisions in ch. 250, F.S., grant the Adjutant General authority to administer the department and command the troops of the FNG. Currently, s. 250.10(2)(i), F.S., allows the Adjutant General to employ “clerical help as is necessary for the proper conduct” of the department. The department requested this term replaced with the general term ‘personnel’, thereby allowing the Adjutant General more flexibility in employing appropriate personnel.

Currently, the Governor must issue an executive order to authorize troops be activated for training. The department requested the Adjutant General be given this authority when the Legislature has made funding available for such purpose, thus eliminating the need for executive orders to authorize routine training.

Section 250.115, F.S., authorizes the department to participate in the operation of a “direct support organization” for the FNG. The non-profit Florida National Guard Foundation, Inc., provides support and financial assistance to the members of the Guard and their families, supports various projects that ‘advance the Guard,’ and recognizes individual achievement and support for the Guard. Over the past 20 years, the foundation has awarded more than \$180,000 in scholarships to FNG members and \$55,000 to museums, memorial, and historical projects that recognize the contributions of the FNG. The foundation is supported by individual and corporate contributions. All administrative support is provided by DMA.³⁰

Federal Joint Ethics Regulations govern the standards of ethical conduct of FNG members. The department interprets these regulations to restrict, to some extent, the Adjutant General’s direct individual participation in this direct support organization. To comply with federal regulations, the department recommended that s. 250.115, F.S., be amended to replace the Adjutant General as president of the board of directors with an individual appointed by the Adjutant General. In addition, the department recommended that the authority to use department property and promulgate rules governing the support organization be transferred from the ‘Adjutant General’ to the department.

Workers’ Compensation

states to delegate the authority to convene a general court-martial.

³⁰ Pamphlet for Florida National Guard Foundation, Inc.

²⁷ OPPAGA Justification Review, Report No. 01-59, p. 9.

²⁸ S. 2, Art. X, and s. 1, Art. IV of the State Constitution.

²⁹ Public Law 107-314 amended 32 U.S.C. s. 327 to allow

Chapter 440, F.S., governs Workers' Compensation in Florida. The Division of Risk Management of the Department of Insurance (DOI) manages the state's workers' compensation program. To a significant degree, the state is 'self-insured'. State agencies are assessed an annual fee to cover their employees, which is paid for in an annual appropriation from the Legislature. DMA participates in the state's workers compensation program only for its 279 full-time employees. State-activated troops are not insured under this program.³¹

Section 250.34, F.S., provides for "medical attention and necessary hospitalization" and pay for troops who become injured or disabled while in active military service of the state. While the FNG does not participate in the state's workers' compensation program for state activated guards, it does use the compensation guidelines provided in ch. 440, F.S. Furthermore, the Division of Risk Management provides assistance in processing and, in some cases, litigating claims against the FNG.

Historically, compensation for state activated troops injured in the line of duty has been funded through a variety of sources available to the department. While such sources are sufficient to pay routine claims and associated legal costs, the department must petition the Governor for additional fund to cover major claims and associated legal costs. The department requested this section be amended to require the DOI to provide insurance coverage to severely injured or disabled troops (troops with claims past one year from the date of injury or disability) and provide associated legal assistance to the department.

In addition, the department requested this section be clarified to state that injuries are not compensable if they are the result of a pre-existing condition.

Health Benefits, Job Protection, and Property Rights of Guard Members

The department has requested the Legislature strengthen or expand a number of benefits or protections of troops activated for duty.

Currently, s. 250.23, F.S., requires that enlisted personnel be provided meals or payment for meals during emergency state active duty operations. However, officers are ineligible for such meals. The department requested this benefit be provided for

officers. If approved, it is estimated that department reimbursement costs will increase for meals provided during emergency state active duty operations.

Section 250.341(4), F.S., requires FNG members to notify their employer that they want to continue insurance coverage while activated into guard duty. The department reports that some employees fail to provide this notification, sometimes because of the short notice of activation or because of the nature of their military mission. In addition, some employers request department officials verify this notification. To address this problem, the department requested that the "appropriate military authority" be authorized to provide this notification. In addition, the department requested that a new provision be included in this section, consistent with federal law³², stating that:

"Prior notice to the employer is not required if such notice is precluded by military necessity or if such notice is impossible or unreasonable."

Section 250.48, F.S., allows activated troops who are employees of "political subdivisions of the state" to take a leave of absence, without a loss of pay, for up to 30 days at a time. While school districts are generally considered "subdivisions of the state," the department requested this provision be modified to specifically reference school districts. Section 250.482, F.S., prohibits "public and private" employers from discharging, reprimanding or penalizing employees activated for state duty. The department requested this provision be modified to specifically reference school districts.

The Federal Soldiers and Sailors Civil Relief Act (SSCRA) provides for the suspension of enforcement of civil liabilities, in certain cases, of persons in the military service of the United States. The act contains provisions relating to rent obligations, installment contracts, mortgages, liens, assignments, and leases. Its purpose is to "protect active military personnel from having their legal remedies expire during that time in which they are unable to assert them due to the unique demands placed upon personnel by virtue of their military service."³³

When called into active duty, members of the Florida National Guard are protected by this act.

Section 250.5201(4), F.S., requires troops to provide a copy of his or her orders to creditors, their landlord, or

³¹ Federally activated troops are insured by the federal government.

³² see 38 U.S.C.A., s. 4312(b).

³³ Section 6, 36 Fla Jur 2d.

the court when attempting to suspend their financial obligations under the SSCRA. The soldier must also, upon request by the creditors, provide a re-certification every 30 days. The department suggested this re-certification request authority be limited to the court, as initial certification should be sufficient for creditors, and re-certification may be onerous – especially if the soldier or airman is activated to a remote site. If necessary, the creditor would be able to petition the court to require re-certification.

DMA Physicians

Section 250.375, F.S., does not allow FNG medical officers to serve troops or civilians during an emergency when they are serving out-of-state. The department requested this provision be amended to include this provision.

Armory Board

Section 250.40, F.S., recognizes the State Armory Board, which “is charged with the supervision and control of all military buildings and real property within the state applied to military uses.” DMA requested this section be amended to clarify the membership and responsibilities of the board, and to add a Governor’s representative to the board. In addition, they requested this section be amended to remove obsolete provisions, and be substantially re-organized and consolidated with ss. 250.41 and 42, F.S.

DMA Education Programs

Sections 250.10(7) and (8), F.S., provide for a educational benefits to troops in the FNG, in the form of a tuition exemption program and a tuition assistance program. The exemption program (The State Tuition Exemption Program, or STEP) provides troops with an exemption of ½ of tuition and fees on a ‘space available basis.’³⁴ The assistance program (The Educational Dollars for Duty Program, or EDD) provides, subject to appropriations, payment of the full cost of tuition and fees for troops who enlist after June 30, 1997.” Troops using either program must “agree in writing to serve in the active Florida National Guard for 3 years after completion of the studies for which an exemption is granted.”

The department requested this provision be amended to replace or delete obsolete terms and to customize the penalty provision to fit both STEP and EDD programs, and to clarify that the department, through the STEP

program, may provide ½ the tuition and fees, rather than the full cost of tuition and fees, under certain conditions. Historically, the department has provided ½ the tuition and fees when the school or university could not provide a waiver.

The department also requested the guard member be subject to interest charges on defaulted repayments of tuition and fees when he or she becomes ineligible for the exemption or tuition assistance.

Courts-Martial

The state National Guards are governed by the concurrent laws of the federal and respective state governments. All provisions of federal law which relate to the Florida National Guard, and which are not inconsistent with the state constitution, are part of the military laws of Florida.³⁵ The federal Uniform Code of Military Justice (UCMJ) contains the substantive and procedural laws governing the military justice system.³⁶ The Manual for Courts-Martial (MCM) prescribes procedural rules and punishments for violations of crimes.

Members of the Florida National Guard are subject to the same laws as the civilian population. However, absent any agreement between the civilian authorities and the base commander, the military commander has concurrent jurisdiction over the troops in criminal matters. For practical reasons, the department generally defers to civilian authorities for prosecution of such crimes.

However, action by civilian authorities does not preclude the department from taking additional disciplinary action against the Guard member. Such discipline can be either administrative or by court-martial. There are three levels of court martial: summary, special, or general.

The department requested provisions in chapter 250, F.S., be amended to conform to federal law. Specifically, to:

- Specify that warrant officers and cadets may not be tried by summary courts-martial;
- Clarify that defendants may waive trial by panel and request trial by ‘military’ judge;

³⁵ Section 250.03, F.S.

³⁶ Section 814, Art. 2(a)(3) of the UCMJ excludes National Guard members from its provisions unless they are activated for federal service. However, s. 250.35(1), F.S., adopts the UCMJ and the MCM for use by the FNG.

³⁴ At the close of class registration, open classroom ‘slots’ are available to those with waived or discount tuition.

- Authorize the Adjutant General to convene general courts-martial, when delegated by the Governor;
- Clarify that only enlisted personnel may have rank reduced to lowest enlisted grade;
- Specify that for punishments in summary courts-martial, confinement cannot be combined with a fine;
- Specify that when non-judicial punishments are imposed, the combination of extra duty and restriction may not exceed 14 days;
- Decrease fine thresholds imposed in courts-martial; and
- Increase from 3 days to 30 days the time the Adjutant General or a military judge may jail a person for contempt of court.

In addition, the department requested that this chapter be amended to replace obsolete references to editions of federal law; and to clarify that members of the Florida National Guard are subject to ch. 250, F.S., and the UCMJ at all times during their enlistment or appointment, whether serving in Florida or out-of-state.

Section 250.36, F.S., relates to mandates and process for military courts. The Adjutant General and military judges are authorized to issue pre-trial confinement warrants and subpoenas. The department requested this authority be granted to the Adjutant General's designee.

Chapter 250, F.S., imposes various penalties for infractions relating to military matters. The department request the following penalties be increased from second-degree misdemeanor to first-degree misdemeanor:

- Unauthorized wearing of uniform and insignia of rank (s. 250.43, F.S.);
- Discrimination against any military personnel (s. 250.45, F.S.);
- Insulting troops (s. 250.51, F.S.); and
- Persuading persons against enlistment (s. 250.52, F.S.).

In addition, the department requested that the unlawful sale or distribution of military equipment be increased from a second-degree misdemeanor to "theft as provided in chapter 812, F.S. (s. 250.44, F.S.).

Trust Funds

Section 250.175, F.S., establishes the Federal Law Enforcement Trust Fund to account for funds received

from the drug asset seizures resulting from department counter-drug enforcement activities.³⁷ Section 250.601, F.S., establishes the Emergency Response Trust Fund,³⁸ which accounts for reimbursements from the Federal Emergency Management Agency for the costs of activating the Florida National Guard and transfers of state funds approved by budget amendments. These are the only department trust funds specifically listed in the statutes. Other department trust funds include the Camp Blanding Management Trust Fund,³⁹ which accounts for funds generated from activities at Camp Blanding; and the Armory Board Trust Fund,⁴⁰ which accounts for funds received from the federal governments. All four trust funds are exempt from the 7% service charge imposed by s. 215.20, F.S. In addition, all trust fund balances remaining at the end of the fiscal year remain in the trust fund – such balances are not transferred to general revenue.

The department requested the Camp Blanding Management Trust Fund be included in ch. 250, F.S. In addition, they requested the Armory Board Trust Fund be renamed as the Cooperative Agreement Trust Fund, to better reflect the actual function of the fund, and be included in ch. 250, F.S.

Accounting Practices

Section 250.20, F.S., addresses the distribution and accounting of armory maintenance allowances. In response to issues identified in a recent Operational Audit by the Florida Auditor General,⁴¹ the department requested this section be amended to require that armory maintenance allowances only be deposited into a department-approved federal depository. "Federal depositories" are federally insured (FDIC) financial institutions.

In addition, the department requested a new provision be added to this section to clarify that each post commander is responsible for the proper receipt and distribution of the post maintenance allowance. While this responsibility appears to be clear in current law and department rules, including this requirement in this section will clearly specify the department's expectations of armory post commanders.

³⁷ Created by ch. 98-394, L.O.F., and re-authorized in ch. 2002-142, L.O.F.

³⁸ Created by ch. 2002-167, L.O.F.

³⁹ Re-authorized in ch. 2002-141, L.O.F.

⁴⁰ Re-authorized in ch. 2002-140, L.O.F.

⁴¹ Auditor General Report 02-021.

Definitions

The department requested all definitions be from the chapter be consolidated into one section, and that new definitions, consistent with federal law, be added to ch. 250, F.S. For consistency, the department also requested the term “state active duty” replace similar terms used throughout the chapter.

Internal Inconsistencies

The department recommended a number of provisions be amended to resolve internal inconsistencies within ch. 250, F.S., or inconsistencies between this chapter and the State Constitution. Section 250.07, F.S., requires the Adjutant General be the rank of major general, while s. 250.10(1), F.S., requires he or she be a brigadier general. The department recommended the second provision be deleted, which is consistent with the federal threshold,⁴² and the current staffing needs as determined by the Department of Defense.

Likewise, the provisions setting the qualifications for the Assistants Adjutant General are inconsistent. Section 250.07, F.S., requires the assistants be the rank of major at the time of appointment, while s. 250.10(4) and (6), F.S., requires they be a colonel. The department recommends the higher rank be retained, and that these positions be for a brigadier general “or such higher rank as may be authorized” by the Department of Defense, rather than “not higher than” brigadier general, as specified in current law. The higher thresholds are consistent with the current staffing needs as determined by the Department of Defense. Current federal military promotion guidelines require any of the general ranks be of the rank of colonel to be eligible for promotion.

Finally, the State Constitution allows persons intending to become citizens to enlist in the Florida National Guard, while s. 250.07, F.S., does not. This provision should be changed to be consistent with our State Constitution.

Up-dating Chapter 205, F.S.

The department recommended a number of provisions be amended to replace or delete obsolete or inaccurate provisions.

Currently, s. 250.10(1), F.S., requires that military police and firefighters employed by the FNG be paid the same wage as their military grade requires, unless “a different rate of pay and allowances be specified in the appropriation bill, in which event such pay shall be

the amount therein specified.” Historically, the rate of pay has been specified annually in the appropriations bill. The department requested this section be amended to statutorily exempt military police and firefighter pay from the wage/military pay requirement.

Section 250.18, F.S., requires officers in the FNG to provide their own military equipment. Currently, the FNG provides all personnel the necessary equipment necessary to fulfill their responsibilities. This section also requires the department to provide a uniform allowance to officers. However, because the federal government provides a \$400 allowance to officers upon appointment, this requirement is not necessary.

Section 250.21, F.S., requires the department maintain a “Retired List of the Florida National Guard.” While decades ago this section was used as a ‘recall’ list, most recently it has been used for social purposes and to maintain a mailing list for newsletters. The department states that it is no longer necessary, for either military or social purposes.

Throughout ch. 250, F.S., the terms “active militia” and “organized militia” is used. The department recommends this term be replaced with the “Florida National Guard.” This is consistent with s. 250.02, F.S., which recognizes the Florida National Guard as the state’s organized militia, absent additional military forces authorized by law. The FNG is the only authorized military force at this time.

For internal consistency, the department recommends the term “state active duty” replace similar terms throughout the chapter. Similar terms include: active service by the state, active service of the state, active military service of the state, active military duty, active state duty, active service, state active service, and state active military service for this state.

RECOMMENDATIONS

We recommend that the changes requested by the Department of Military Affairs be supported by the Committee and that a bill be filed that incorporates these recommendations.

⁴² National Guard Regulation 600-100, 11-3.a.(3)