

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1604

SPONSOR: Appropriations Committee, Comprehensive Planning Committee; Military and Veterans' Affairs, Base Protection, and Spaceports Committee; and others

SUBJECT: Military Affairs

DATE: March 29, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Krasovsky</u>	<u>Krasovsky</u>	<u>MS</u>	<u>Favorable</u>
2.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
3.	<u>Maclure</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
4.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
5.	<u>Arthur</u>	<u>Kelly</u>	<u>ATD</u>	<u>Fav/CS</u>
6.	<u> </u>	<u> </u>	<u>AP</u>	<u>Withdrawn: Fav/CS</u>

I. Summary:

Committee Substitute for CS/SB 1604 creates the Office of Military and State Relations within the Executive Office of the Governor, the purpose of which is to help formulate and implement strategies to protect military installations in the state from closure or realignment.

The committee substitute requires the exchange of information between local communities and military installations when land use decisions may affect operations at an installation. The committee substitute also specifies issues that the installation's commanding officer may address in commenting on a proposed land use change and requires a local government to consider the commanding officer's comments. It also requires a representative of the military installation to be included as an ex-officio, nonvoting member of the affected local government's land planning or zoning board.

In addition, the committee substitute requires a local government to amend the future land use plan element of its comprehensive plan to address the compatibility of future uses on lands adjacent or closely proximate to military installations and to include criteria to achieve that compatibility. The committee substitute exempts a comprehensive plan amendment related to addressing the military considerations from the twice-per-year limitation on the frequency of plan amendments. Also, a local government's evaluation and appraisal report on its comprehensive plan must include an assessment of whether the criteria included in the future land use plan element have been successful in resolving compatibility issues for military installations.

The committee substitute also creates a Defense Infrastructure Grant Program to be coordinated and implemented by the Office of Tourism, Trade, and Economic Development.

The committee substitute addresses the recommendations made in Interim Project Report 2004-154 by the Senate Committee on Military and Veterans' Affairs, Base Protection, and Spaceports titled *Protecting Florida's Contributions to the Nation's Military Readiness*. That interim report addresses issues relating to the U.S. Department of Defense's initiation of another round of base realignments and closures, commonly referred to as "BRAC."

This committee substitute amends the following sections of the Florida Statutes: 163.3177, 163.3187, 163.3191, and 288.980; and creates the following sections of the Florida Statutes: 14.2018 and 163.3175.

II. Present Situation:

Base Realignment and Closure

The U.S. Department of Defense is in the midst of the 2005 round of the base realignment and closure process, commonly referred to as "BRAC." The federal Defense Base Closure and Realignment Act of 1990, as amended, governs BRAC and establishes a review process resulting in the timely closure and reorganization of military installations in the United States. The BRAC process reflects a desire to eliminate excess capacity, experience the savings from that reduction in capacity, and fund higher-priority weapon platforms and troop training.¹ The congressional authorization for BRAC 2005 provides for the Secretary of Defense to publish recommendations by May 16, 2005, on installations for closure or realignment.² There are indications that the 2005 BRAC may result in a 20- to 25-percent reduction in base capacity.³ There have been four BRAC rounds between 1988 and 1995. In 1988 and 1995, 97 bases were closed.⁴ The impact of installation closures on a state can be significant. For example, California lost more than 20 facilities, resulting in the loss of an estimated 100,000 civilian and military jobs.⁵ During the 1993 round, four Florida bases were closed.⁶

Last month, the Department of Defense issued the final selection criteria for closing and realigning military installations. Priority consideration will be given to "military value," which includes:

- The current and future mission capabilities and the impact on operational readiness of the nation's military force;

¹ Committee on Military and Veterans' Affairs, Base Protection, and Spaceports, The Florida Senate, *Protecting Florida's Contributions to the Nation's Military Readiness*, Interim Project Report 2004-154, 1, December 2003, available at http://www.flsenate.gov/data/Publications/2004/Senate/reports/interim_reports/pdf/2004-154ms.pdf.

² See ss. 2912-2914 of the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510, as amended through the National Defense Authorization Act of Fiscal Year 2003.

³ National Conference of State Legislatures, "Trends and Transitions: Lawmakers Plan Counterattack Against Base Closings," *State Legislatures*, 9, March 2004.

⁴ *Id.*

⁵ *Id.*

⁶ Florida lost the Naval Aviation Depot Pensacola, the Naval Aviation Station Cecil Field Jacksonville, the Naval Training Center Orlando, and Homestead Air Force Base. Committee on Military and Veterans' Affairs, Base Protection, and Spaceports, *supra* note 1, at footnote 2.

- The availability and condition of land, facilities, and associated airspace at existing and receiving locations;
- The ability to accommodate contingency, mobilization, and future total force requirements at both existing and potential receiving locations; and
- The cost of operations and the manpower implications.

Other considerations include:

- The extent and timing of potential cost savings;
- The economic impact on existing communities in the installation's vicinity;
- The ability of the infrastructure in the communities to support forces, missions, and personnel; and
- The environmental impact, including costs related to environmental restoration, waste management, and environmental compliance.⁷

Military Installations in Florida

Florida currently has 21 military bases – four in the West Panhandle; four in the East Panhandle; five in the Northeast; five in Central Florida; and three in South Florida⁸ – served by more than 55,000 active duty military members and 27,000 civilian personnel.⁹ It is estimated that “[a]ggregate Department of Defense spending flowing directly into the State of Florida during fiscal year 2002 amounted to \$21.7 billion in wages, pensions and other transfers, and goods and services.”¹⁰

In January 2004, a base reassessment team led by representatives of Holland & Knight, LLP, Whitney, Bradley & Brown, and Madison Government Affairs, Inc., as well as Gen. Charles Horner, USAF (Retired), released an assessment of the military bases in the state and a strategy for the state to enhance and retain these installations. The assessment noted that the general trend in previous BRAC rounds has been to move military capabilities away from the center of the nation toward the coasts. The report added that, in light of this trend, Florida may gain from the 2005 BRAC.¹¹

Developmental Encroachment on Installations

With Florida's population growth, civilian development has moved increasingly toward the perimeter of military installations in the state. Development that encroaches upon a military

⁷ 69 Federal Register 6948 (February 12, 2004).

⁸ Base Assessment Team, *Ensuring and Enhancing Florida's Role in the Defense of the United States of America*, 1 & 25, January 2004, available at http://www.floridadefense.org/info/state_assessment/index.asp.

⁹ Haas Center for Business Research and Economic Development, The University of West Florida, *Florida Defense Industry Economic Impact Analysis*, v. 1, 10, December 2003, available at http://www.floridadefense.org/uwf_report/index.asp.

¹⁰ *Id.* at 8.

¹¹ Base Assessment Team, *supra* note 8, at 14. The assessment was commissioned based on a recommendation of the Governor's BRAC Advisory Council.

installation may jeopardize the mission of that base, which in turn may negatively affect the base's prospects under the BRAC process.¹²

Department of Defense Land Development Initiatives

The Department of Defense currently has programs in place to respond to existing and potential threats of incompatible land development. The Navy's and Air Force's Air Installation Compatible Use Zone (AICUZ) Program and the Army's Installation Environmental Noise Management Program (IENMP) are designed to promote compatible development on and off base. Each base in Florida which has an aviation mission has a completed AICUZ program for its airfield. These programs provide information to local governments about noise and accident potential generated by base operations and encourage communities to adopt land-use and zoning controls that restrict the type and density of developments around military airfields to ensure compatibility. Some states, in anticipation of BRAC, have adopted in statute the development recommendations in the AICUZ programs.

Another Department of Defense program creates an opportunity for local governments and military installations to cooperatively develop measures designed to prevent encroachment. This program, called Joint Land Use Study (JLUS), provides for a land use study to be conducted in an area where a military installation is experiencing encroachment or incompatible development problems. The program can proceed only after there is agreement and support for the study from the base command and local government officials. A typical JLUS can cost between \$60,000 and \$120,000 depending on the complexity of the issues. This cost is shared by the Defense Department and the local government on a 75/25 percentage, respectively. A JLUS has been completed for Santa Rosa and Escambia counties, with other studies under way to various degrees at MacDill and Homestead.

A JLUS is intended to be the community's planned response to the presence of the military installation. The recommendations in the study create a policy framework to support adoption and implementation of compatible development measures designed to prevent encroachment, safeguard the military mission, and protect the public health, safety, and welfare. Actual implementation of these measures would involve revisions to the community's comprehensive plan and traditional land-use controls, such as zoning, subdivision regulation, and structural-height restriction. There is, however, no requirement that the local government implement any of the recommendations.¹³

Comprehensive Planning in Florida

In Florida, the Local Government Comprehensive Planning and Land Development Regulation Act¹⁴ establishes a growth management system that requires each local government to adopt a comprehensive land-use plan that includes certain mandatory and optional elements.¹⁵ This plan is intended to be the policy document guiding local governments in their land use decisions. The

¹² Committee on Military and Veterans' Affairs, Base Protection, and Spaceports, *supra* note 1, at 2-3.

¹³ *Id.* at 3.

¹⁴ Sections 163.3161-163.3246, F.S.

¹⁵ Section 163.3177, F.S., prescribes the required and optional elements of comprehensive plans.

Department of Community Affairs (DCA) was required to adopt minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the statewide requirements of the act. Each county and municipality must adopt or amend and enforce land development regulations that are consistent with and implement the local government's comprehensive plan.¹⁶

The DCA is also focusing on BRAC 2005. It has started a military base encroachment initiative, the object of which is to assist local governments and military base commanders in assessing land use encroachment issues and developing practical solutions to mitigate incompatible uses. A report identifying common encroachment concerns, solutions, and follow up actions was to be completed by February 15, 2004.¹⁷

Grants for Military Installation Activities

In response to base closures under previous BRAC rounds, the Legislature adopted provisions in the mid-1990s dealing with base closure, disposition of military property, and reuse plans for the closed bases.¹⁸ In addition, legislation was adopted aimed at future military base retention through the provision of financial assistance from the state. Legislative intent for this retention effort states in part:

The Legislature hereby recognizes that the state needs to coordinate all efforts that can facilitate the retention of all remaining military installations in the state. The Legislature, therefore, declares that providing such assistance to support the defense-related initiatives within this section is a public purpose for which public money may be used.¹⁹

In 1997, the Community Defense Grant program was created to provide a variety of grants that are designed to help defense communities develop economic diversification strategies, improve base efficiencies, and implement base reuse programs. Examples of grants awarded include funds for strategic planning for BRAC, economic impact studies, environmental assessments, encroachment protection, and the development of marketing materials.

For the last three years, \$1 million dollars was annually requested, and appropriated, for this program. The Office of Tourism, Trade, and Economic Development (OTTED) awards the grants, which are administered by Enterprise Florida, Inc.

The Military Base Protection Grant program followed in 1999.²⁰ This program has been created annually through the appropriations process with very general guidelines. Grants are awarded to economic development organizations representing military communities for local infrastructure projects deemed to have a positive affect on the military value of the installation and that would strengthen Florida's competitive position for retention and expansion of current military activity. Examples of grants awarded include funds for utility upgrades, planning for access gates to

¹⁶ Section 163.3202, F.S.

¹⁷ Committee on Military and Veterans' Affairs, Base Protection, and Spaceports, *supra* note 1, at 3.

¹⁸ See ss. 288.975, 288.976, 288.977, and 288.980, F.S.

¹⁹ Section 288.980(1)(a), F.S.

²⁰ This grant has also been referred to as the Defense Infrastructure Grant program.

major highways, planning and development for range expansions, and land purchases to address incompatible growth. The Legislature appropriated \$3.4 million for the program this current fiscal year, with \$4 million appropriated in 2003, \$5 million in 2002, and \$4 million in 2001. Grants are awarded and administered in the same manner as the Community Defense Grant program.

To date, approximately \$25.5 million has been awarded under these programs. Prioritized infrastructure needs provided by military installations in the state to Enterprise Florida, Inc., for 2003 totaled slightly more than \$110 million. This amount broken down by regions is: northwest region/Panhandle at \$50,367,608; northeast region/Jacksonville at \$20,467,848; central region/Orlando at \$9,343,000; and south region at \$30,178,953. One cannot assume that the \$110 million figure represents only high value, priority projects necessary to the operation of each base.²¹

A better determinate of what reflects the highest priority needs of Florida's installations may be the projects requested under the Military Base Protection Grant program for this current year. Each base was allowed to apply for its top three priorities. However, many installations only applied for their first or first and second priority because of the limited funding available. There were 32 applications received for a total requested amount of \$12,630,608. Applications for the previous year requested three times that amount.²²

Military-Related Advocacy and Coordination Initiatives

In 1998 the Florida Defense Alliance (FDA) was created within Enterprise Florida, Inc. This action was taken in response to Florida bases being closed during previous BRAC rounds. The statutory charge to the FDA was "to ensure that Florida, its resident military bases and missions, and its military host communities are in competitive positions as the United States continues its defense realignment and downsizing."²³ The FDA also serves as an overall advisory body for Enterprise Florida, Inc., on defense related matters. Enterprise Florida, Inc., does provide staffing for the FDA effort without any additional direct funding for this activity.

The FDA is comprised primarily of community representatives from each Florida county that hosts a military installation or is dealing with a base reuse program. Representatives from statewide businesses and defense-related organizations are also included. State and federal legislators are involved, as are representatives of Florida state agencies. Thirty-one military leaders from various bases and commands act as liaisons to the FDA. In pursuing its mission, the FDA concentrates on activities to reduce the exposure of military bases to organizational threats, such as BRAC, and supports local efforts to address quality of life issues for Florida's service members.

Since March 2003, the Governor has employed a defense coordinator within the Office of Tourism, Trade, and Economic Development. This position is the first full-time state employee dedicated to working solely on military issues, aside from members of the Florida National

²¹ Committee on Military and Veterans' Affairs, Base Protection, and Spaceports, *supra* note 1, at 5.

²² *Id.*

²³ Section 288.980(1)(b), F.S.

Guard. The defense coordinator position is not a statutorily created position or office with correspondingly identified duties, nor is there direct funding in support of the position. Although other military issues are handled, the position primarily provides staffing to the Governor's BRAC Advisory Council. As such, the defense coordinator serves the dual role of Executive Director to the Advisory Council. Additional program and policy support is provided by the Enterprise Florida, Inc./FDA staff.

Senate Interim Project Report

The Senate Committee on Military and Veterans' Affairs, Base Protection, and Spaceports in December 2003 issued an interim project report titled *Protecting Florida's Contributions to the Nation's Military Readiness*. Some of the report's recommendations included: requiring local governments to incorporate elements into their comprehensive plans relating to the compatibility of future development with military installations; requiring the exchange of information between the local government and an installation when land-use decisions may affect the installation; increasing funding for military grants; and creating an office of military affairs within the Executive Office of the Governor.²⁴

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 1604 addresses the recommendations made in Interim Project Report 2004-154 by the Senate Committee on Military and Veterans' Affairs, Base Protection, and Spaceports titled *Protecting Florida's Contributions to the Nation's Military Readiness*. That interim report addresses issues relating to the U.S. Department of Defense's initiation of another round of base realignments and closures, commonly referred to as "BRAC."

The committee substitute creates an Office of Military and State Relations, provides for the incorporation of issues related to military installations into the local comprehensive planning process, and establishes a Defense Infrastructure Grant Program.

Office of Military and State Relations

Section 1 establishes the Office of Military and State Relations within the Executive Office of the Governor, codifying the authority for this new office in s. 14.2018, F.S. The director of this office will be appointed by and serve at the pleasure of the Governor. The office's responsibilities include working with the state's military installations, unified commands, military communities, state agencies, and economic development professionals to develop strategies that protect Florida's bases from closure, bolster the state's economic well-being, and maintain a military-friendly climate in the state.

To accomplish its purposes, the office shall:

- Advise and assist the Governor on issues relating to BRAC and other realignment efforts;

²⁴ Committee on Military and Veterans' Affairs, Base Protection, and Spaceports, *supra* note 1, at 8.

- Assist Enterprise Florida, Inc., with the expansion of Florida's military and associated defense industries;
- Assist the Florida Defense Alliance in keeping Florida competitive with other states that have significant military populations;
- Work with state agencies to better serve host military communities and Florida's military families;
- Assist with volunteer efforts that address quality-of-life issues for military families; and
- Perform other activities as directed by the Governor.

The committee substitute specifies that the activities of the new office may not interfere with the duties and jurisdiction of the Department of Military Affairs or of the Adjutant General under ch. 250, F.S.

Comprehensive Planning

Section 2 creates s. 163.3175, F.S., to provide legislative findings on the compatibility of land development with military installations and the necessity for an exchange of information between local governments and military installations. Under the committee substitute, each county that contains a military installation and other affected local governments must transmit certain information regarding proposed changes to its comprehensive plan or land development regulations which, if approved, could affect the intensity, density, or use of land adjacent to or in close proximity to a military installation. The committee substitute does not define the term "close proximity."

Upon receiving the information, a commanding officer or his or her designee may comment on the effect that the proposed changes would have on the mission of the military installation. The commanding officer's comments may address:

- Whether the proposed change is incompatible with the safety and noise standards in the military installation's Air Installation Compatible Use Zone (AICUZ), if the installation has an airfield;
- Whether the proposed change is incompatible with the Installation Environmental Noise Management Program (IENMP) of the U.S. Army;
- Whether the proposed changes are incompatible with a Joint Land Use Study (JLUS); and
- Whether the military installation's mission will be negatively affected by the proposed change.

The local government must consider the comments of the commanding officer and transmit those comments to the Department of Community Affairs and to the Office of Military and State Relations (created under **Section 1** of the committee substitute). A representative of the military installation shall serve as an ex-officio, nonvoting member of the county's or affected local government's land planning or zoning board. The commanding officer is encouraged to provide information regarding any community planning assistance grants that may be available through the federal Office of Economic Adjustment.

The committee substitute provides definitions for the terms “affected local government” and “military installation.”

Section 3 amends s. 163.3177, F.S., to require a local government to include, as part of the future land use plan element of its comprehensive plan, considerations related to the compatibility of uses on lands adjacent to or closely proximate to military installations. (The committee substitute does not define the term “closely proximate.”) In addition, the future land use plan element must contain criteria to be used in achieving the compatibility of adjacent or closely proximate lands with military installations.

Under the committee substitute, local governments must update or amend their comprehensive plans to include criteria and address the compatibility of adjacent or closely proximate lands with existing military installations in their future land use plan element. Such an update or amendment must be transmitted to the Department of Community Affairs by June 30, 2006. The department must consider land use compatibility issues adjacent to or in close proximity to all military installations in coordination with the Department of Defense.

Section 4 amends s. 163.3187(1), F.S., to provide that an amendment to a comprehensive plan addressing criteria and the compatibility of land uses adjacent to or in close proximity to a military installation does not count toward the twice-per-calendar-year limitation on the frequency of plan amendments.

Section 5 creates s. 163.3191(2)(n), F.S., to require a local government’s report evaluating and appraising its comprehensive plan to include an assessment of whether the criteria in the future land use plan element were successful in resolving issues for military installations.

Defense Infrastructure Grant Program

Section 6 amends s. 288.980, F.S., to create the Defense Infrastructure Grant Program, which will be coordinated and implemented by the Office of Tourism, Trade, and Economic Development (OTTED). The purpose of the program is to support local infrastructure projects that would have a positive impact on military installations within the state. Infrastructure projects to be funded by this program include, but are not limited to, those projects related to: encroachment, transportation and access, utilities, communications, housing, environment, and security.

The committee substitute specifies that a grant request must come from an economic development applicant serving in the official capacity of a governing board of a county, municipality, special district, or state agency that will have authority to maintain the project after completion. The applicant must represent a community or county in which a military installation is located. There is no limitation on the amount of any grant, but the county or local community may be required to match the amount. OTTED is authorized to establish guidelines for the program.

Effective Date

Section 7 provides the act shall take effect upon becoming a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The provisions of this committee substitute are part of a larger effort to protect Florida's military installations from closure. In general, military installations have a significant positive economic impact for the communities in which they are located.

C. Government Sector Impact:

The committee substitute will have a nominal fiscal impact on both the military installations and local governments that would be required to exchange information on proposed land-use changes and provide comments pursuant to this legislation.

Local governmental units that would be required to update or amend their comprehensive plans to include compatibility with military installations and related criteria would experience the costs associated with making those changes. There are 21 military installations and three unified commands situated in 13 Florida counties. The cost for a local government to amend or update its comprehensive plan would differ with the particulars of each location.

The committee substitute does not itself appropriate money to fund the new Defense Infrastructure Grant Program. Such funding for fiscal year 2004-2005 is expected to be included in the 2004 General Appropriations Act. OTTED may experience costs associated with establishing and administering the grant program, including developing program guidelines and reviewing applications.

The committee substitute creates an Office of Military and State Relations within the Executive Office of the Governor. The committee substitute specifies that the office shall have a director.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Chapter 20, F.S., establishes the organizational structures of entities within the executive branch of state government. Section 20.03, F.S., establishes the definitions for these units “. . . to provide uniform nomenclature throughout the structure of the executive branch.” That chapter does not contain a definition of the term “office” within the executive branch. Nevertheless, the Legislature has authorized specific departments, such as the Department of Transportation, to have units called “offices.”

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
