

## **MILITARY AFFAIRS**

### **SB 482 — Rental Agreements**

by Senators Lynn, Fasano, and Argenziano

This bill amends s. 83.682, F.S., to eliminate a provision requiring the payment of liquidated damages when a member of the United States Armed Forces terminates a rental agreement due to reassignment. The bill would continue to require that service members provide notice of termination to the landlord at least 30 days in advance and provide either a copy of the official military orders or a written verification signed by the member's commanding officer. In addition, the service member would remain liable for the portion of rent due under the rental agreement prorated to the effective date of the termination. The bill also prohibits landlords from discriminating against members of the United States Armed Forces in renting residential property.

The bill creates a new section of law, s. 83.575, F.S., permitting residential rental agreements with a specific duration to contain a provision requiring a tenant to give up to 60 days' notice of his or her intent to vacate the premises at the completion of the rental agreement. If a rental agreement requires notice and the tenant does not give such notice, the tenant may be liable for liquidated damages as specified in the rental agreement. Additionally, this new section of law provides that if the tenant remains in the rental unit after the termination of the rental agreement with the landlord's permission and fails to give timely notice prior to leaving, the tenant is liable to the landlord for one month's rent.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 36-0; House 116-0*

### **CS/SB 684 — Military Affairs**

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senators Lynn and Bullard

This committee substitute addresses a number of issues relating to the Florida National Guard and its supporting state agency, the Department of Military Affairs, and incorporates the recommendations contained in "Interim Project Report 2003-116: Review of Chapter 250, F.S., Military Affairs and Related Matters."

### ***Insurance, Employment, and Property Rights Protection***

Currently, s. 250.341, F.S., requires Florida National Guard (FNG) members to notify their employer if they want to continue health insurance coverage while activated into guard duty. The department reports that some employees fail to provide this notification, often as a result 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 committee substitute authorizes the “appropriate military authority” to provide this notification to employers. In addition, the committee substitute provides 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.

In addition to federal protections afforded military reservists, Florida law provides certain safeguards for FNG members ordered to state active duty. For example, s. 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. Similarly, s. 250.482, F.S., prohibits “public and private” employers from discharging, reprimanding, or penalizing employees activated for state duty. The committee substitute amends these sections to clarify that activated employees of school districts, and vocational and technical schools, are protected against such action for taking a leave of absence when activated for service by the FNG.

Section 250.5201, F.S., requires a member of the FNG to provide a copy of his or her orders to creditors, his or her landlord, or the court when attempting to suspend his or her financial obligations under the Federal Soldiers and Sailors Civil Relief Act. The member must also, upon request by creditors, provide a re-certification every 30 days. The committee substitute amends this section to limit this re-certification request authority to the court and authorize creditors to petition the court to require re-certification.

### ***Authority of the Governor and Adjutant General***

The committee substitute provides that the Governor may order troops into state active duty to “respond to terrorist threats or attacks,” and specifies additional activities the Governor may authorize the FNG to participate in, including ceremonies, inspections, and training. In response to changes in federal law authorizing the states to designate who may convene certain courts-martial, the committee substitute authorizes the Governor to delegate to the Adjutant General the authority to convene general courts-martial for the National Guard when not on federal service.

Currently, s. 250.28, F.S., provides that in response to certain emergencies where local authorities are unable to maintain or restore order, the Governor, or in case the Governor cannot be reached and the emergency will not permit awaiting his or her orders, the Adjutant General, shall issue orders directing the appropriate military personnel to assist local authorities. The committee substitute amends this section to provide that if the Governor cannot be reached and the emergency will not permit awaiting his or her orders, the Governor’s successor as established

in s. 14.055, F.S., is authorized to issue orders mobilizing troops. If the appropriate successor cannot be reached and the emergency will not permit awaiting his or her orders, the Adjutant General is authorized to mobilize the necessary troops. This section is also amended to authorize the Governor or the Governor's successor to respond to a threat to security, a terrorist threat, or terrorist attack.

### ***Worker's Compensation Coverage***

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. While such sources are sufficient to pay routine claims and associated legal costs, the department must petition the Governor for additional funds to cover major claims and associated legal costs.

The committee substitute amends s. 250.34 F.S., to specify that the Department of Insurance will process workers compensation insurance benefits to certain severely injured or disabled troops (troops with claims past one year from the date of injury or disability) and will also provide associated legal assistance to the department. Procedures are specified for annual reimbursement to the Department of Insurance when benefits and associated legal assistance are provided. This section is also amended to clarify certain terms relating to state active duty, and to provide that injuries are not compensable if they constitute a pre-existing condition.

### ***Educational Programs***

Section 250.10, F.S., provides for educational benefits to FNG members 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 one-half of tuition and fees on a "space available basis." 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 committee substitute amends this section to clarify that the state, through the STEP program, may provide only one-half the tuition and fees, rather than the full cost of tuition and fees, under certain conditions. Historically, the department has provided one-half the tuition and fees when the school or university could not provide a waiver. This section is also amended to customize the current general penalty provision to fit both STEP and EDD programs, and establish terms and conditions that clearly distinguish between the two educational programs. Finally, a new

provision is added to require that when a member defaults on repayments of tuition and fees, the institution or the state may charge him or her the maximum interest rate authorized by law.

### ***Armory Board and Accounting Practices***

Section 250.40, F.S., provides that the State Armory Board “is charged with the supervision and control of all military buildings and real property within the state applied to military uses.” The committee substitute implements a number of changes to the authority and functional responsibilities of the Armory Board and support staff, including: specifically designating the Governor as the chair of the board, which is current practice; designating the Adjutant General as vice chair; specifying that only the major command commanders are included on the board; authorizing board members to designate their deputy commander as an alternate member to serve when “exigencies of military duty” make it necessary; and designating the State Quartermaster as the recorder and secretary of the board, and the person responsible for the daily operation of the board.

Section 250.20, F.S., addresses the distribution and accounting of armory maintenance allowances. This section is amended to require that armory maintenance allowances only be deposited into a department-approved federal depository. In addition, a new provision is 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 will clearly specify the department’s expectations of armory post commanders.

Currently, s. 250.40, F.S., authorizes a military “post council” to disburse funds received from rental of armories, maintenance allowances from the department, and fine proceeds, pursuant to rules established by the Armory Board. However, the department reported that such post councils are advisory, and that the post commander is responsible for the proper disbursement of funds and operation of the armory. In order to conform to federal regulations, the committee substitute amends this section to transfer armory operation authority to the post commander, and deletes the section that establishes the post council.

### ***Courts-Martial and Penalties***

The committee substitute amends numerous provisions relating to courts-martial and the imposition of penalties. First, the committee substitute replaces obsolete references to previous editions of federal law, and clarifies that members of the Florida National Guard are subject to ch. 250, F.S., and the Uniform Code of Military Justice at all times during their enlistment or appointment, whether serving in Florida or out-of-state. Section 250.36, F.S., is amended to provide that certain military judges are authorized to issue pre-trial confinement warrants and subpoenas.

The committee substitute also implements a number of statutory changes to conform with recently updated federal law. Most significantly, the committee substitute implements the following conforming changes:

- Specifies that warrant officers and cadets may not be tried by summary courts-martial.
- Clarifies that defendants may waive trial by panel and request trial by 'military' judge.
- Authorizes the Adjutant General to convene general courts-martial, when delegated by the Governor.
- Clarifies that only enlisted personnel may have rank reduced to lowest enlisted grade.
- Specifies that for punishments in summary courts-martial, confinement cannot be combined with a fine.
- Specifies that when non-judicial punishments are imposed, the combination of extra duty and restriction may not exceed 14 days.
- Decreases certain fine thresholds imposed in courts-martial.
- Increases from 3 days to 30 days the time the Adjutant General or a military judge may jail a person for contempt of court.

The committee substitute also increases certain penalties. For example, the following violations are increased from second-degree misdemeanor to first-degree misdemeanor: unauthorized wearing of uniform and insignia of rank; discrimination against any military personnel; insulting troops; and persuading persons against enlistment. Similarly, the penalty for unlawful sale or distribution of military equipment is increased from a second-degree misdemeanor to theft as provided in ch. 812, F.S.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 115-0*

## **CS/SB 1098 — The Rights of the Members of the United States Armed Forces**

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senators Fasano, Lynn, and Crist

This bill addresses several issues that have been identified by the Florida National Guard during their recent deployments which could be changed to better address those situations unique to today's military men and women. In doing so, the bill creates part IV of chapter 250, F.S. (ss. 250.80-250.84), F.S., which may be known by the popular name of the "Florida Uniform Servicemembers Act." These sections provide for legislative intent, short title, applicability of federal law, and the distribution of information relating to servicemembers' rights.

The Act also recognizes that in addition to state law, federal law contains protections that are applicable to servicemembers in every state even though such provisions are not specifically identified under state law. The two major bodies of applicable federal law are the Soldiers' and Sailors' Civil Relief Act (SSCRA), Title 50, Appendix United States Code, s. 501 et seq., and the Uniform Services Employment and Reemployment Rights Act (USERRA), Title 38 United States Code, ch. 43.

The bill also provides definitions for "active duty," "state active duty," and "servicemember." Most importantly, "servicemember" is defined as any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and the United States Reserve Forces.

The protections provided in the bill for servicemembers are identified below.

The Florida Residential Landlord and Tenant Act is amended to prohibit a landlord from discriminating against a servicemember in offering a dwelling unit for rent or in any of the terms of a rental agreement (see s. 83.67, F.S.). The Act is also amended to prohibit retaliatory conduct by a landlord for termination of a rental agreement by a servicemember (see s. 83.64, F.S.).

The Florida Residential Landlord and Tenant Act is further amended to provide conditions under which a servicemember may terminate his or her rental agreement without being liable for liquidated damages (see s. 83.682, F.S.).

The bill clarifies provisions of ch. 115, F.S., relating to pay and leave of absence provisions for active military service.

Motor vehicle license provisions are amended to exempt servicemembers from penalties for expiration of mobile home and motor vehicle registrations when such registrations expire while the servicemember is serving on active duty or state active duty (see s. 320.07, F.S.).

The bill creates a new section relating to termination of a telecommunications service contract by a servicemember to provide requirements and procedures with respect to termination of a telecommunications service contract by a servicemember if certain criteria are met (see s. 364.15, F.S.).

A new section relating to termination of a retail installment contract for leasing a motor vehicle by a servicemember is created to provide requirements and procedures with respect to the termination of such contract by a servicemember if certain criteria are met (see s. 520.14, F.S.).

The bill modifies existing provisions relating to cancellation and return of auto insurance premiums to require insurance companies to refund the entire unearned portion of a premium

upon cancellation of motor vehicle insurance by a servicemember when the servicemember is required to move pursuant to military orders (see s. 627.7283, F.S.).

The bill creates a new section relating to the purchase of real property by a servicemember which provides requirements and procedures for the termination of an agreement to purchase real property by a servicemember (see s. 699.27, F.S.).

Under the Florida Bright Futures Scholarship Program, student eligibility requirements for initial awards are amended to extend the eligibility period for students who enlist in the armed forces or reserves immediately after completion of high school. The student eligibility requirements for renewal awards are also amended to provide eligibility for the continuation of Florida Bright Futures Scholarships for students attending postsecondary institutions who are also Florida National Guard or United States Reserves servicemembers and are called to active duty or state active duty (see ss. 1009.531 and 1009.532, F.S.).

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 115-0*

## **SB 2802 — Military Student Education**

by Senators Haridopolos and Crist

This bill directs the Department of Education to assist in the transition of school-aged dependents of military personnel into the public school system. Specifically, the bill provides that the Department is to assist such students by taking certain actions, including: improving the timely transfer of records; establishing procedures to lessen the adverse impact of moves from the end of the junior year as well as before and during the senior year; encouraging partnerships between the military bases and school systems; providing services for transitioning students when applying to and finding funding for post-secondary study; and providing other assistance as identified by the Department, schools, and military personnel.

The bill provides that the Department is to identify its efforts and strategies for assisting military-connected students in transitioning to Florida schools, including the identification of acceptable equivalence for curriculum and graduation requirements, and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2003.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 116-0*

## **VETERANS' AFFAIRS**

### **CS/SB 2378 — Veterans' Affairs**

by Military and Veterans' Affairs, Base Protection, and Spaceports Committee and Senator Fasano

This committee substitute revises the definition of "veteran" for purposes of receiving benefits as a wartime veteran. Specifically, the committee substitute clarifies that to qualify as a wartime veteran, the service member must have served in the military during a time in which a campaign badge was authorized. This will extend veterans' preference benefits to active duty personnel who served in hostile campaigns, expeditions, or operations other than during those wartime periods specifically identified in s. 1.01, F.S. Similarly, recent changes in federal law established an ending date of January 2, 1992, for the Persian Gulf War. The committee substitute adopts that date to close the window on the time period covering the Persian Gulf War.

The committee substitute amends s. 295.07, F.S., to clarify eligibility for veterans' preferential employment consideration. For federal and state entitlement purposes, active duty service for purposes of training has never been allowable as a period counting for wartime service for veterans' preference. This provision, however, was inadvertently stricken from this section in 1992. The committee substitute amends this section to exclude active duty service for training so that the entitlement program remains consistent with the intent of the law. Additionally, the committee substitute requires that a veteran must have served at least one day during a wartime period in order to qualify for employment preference.

The committee substitute allows the Florida Department of Veterans' Affairs to continue to receive contributions from public entities for the duration of the Florida World War II Veteran Memorial fundraising campaign. The committee substitute also provides a cost-of-living adjustment for funds which residents of the Veterans' Domiciliary Home are allowed to retain in personal use accounts (currently \$100). This cost-of-living adjustment is tied to the annual percentage increase in Social Security benefits..

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 38-0; House 112-0*

## **SPACEPORTS**

### **CS/SB 676 — Transportation**

by Transportation Committee and Senators Sebesta and Bullard

<p>The following summary is limited to space-related provisions in the bill. Please refer to the Transportation Committee section for further discussion of this bill.</p>
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#### **Florida Space Authority**

Section 331.308, F.S., currently provides that the Lieutenant Governor serves as chair of the board of supervisors of the Florida Space Authority. There are a number of administrative and fiscal issues that rise to the level where board review and approval are appropriate, but do not warrant the attention of the Lieutenant Governor. The committee substitute amends this section to authorize the board of supervisors to elect a vice chair to preside in the absence of the Lieutenant Governor and to perform other duties as may be required.

#### **Florida Space Research Institute**

The committee substitute amends s. 331.368, F.S., to revise several provisions relating to the Florida Space Research Institute (FSRI). The committee substitute implements a schedule to rotate industry and academic members on the FSRI board of directors. Under this schedule, private-sector representatives would serve 3-year terms, and academic members would serve 2-year terms. This same section is amended to provide that the board may select additional ex-officio, nonvoting members to serve on the board. In addition, the committee substitute clarifies that FSRI board members are volunteers and are subject to all protections afforded to volunteers of state agencies under s. 768.1355, F.S.

The committee substitute provides that contracts and grants issued by FSRI to state agencies, including state universities and colleges, are subject to s. 216.346, F.S. That section provides that in contracts between state agencies, the agency receiving the contract or grant moneys shall charge no more than 5 percent of the total cost of the contract or grant for overhead or indirect costs. In addition, the committee substitute clarifies FSRI's operational responsibilities by providing specific authorization to: appoint a person to serve as executive director; acquire and dispose of property; execute contracts; establish rules and procedures governing administrative and financial operations; administer grants, contracts, and fees from other organizations; and work in partnership with other economic development and educational organizations.

#### **Florida Commercial Space Finance Corporation**

The committee substitute amends s. 331.401, F.S., to change the name of the corporation to the "Florida Aerospace Finance Corporation." According to representatives of the corporation, this

change will eliminate confusion surrounding its mission and enable the corporation to service aviation-related projects. Additionally, the committee substitute amends s. 331.407, F.S., to incorporate legislative intent language providing that the corporation is not an agency for purposes of ss. 216.011 and 287.012, F.S. Section 216.011, F.S., establishes planning and budgeting provisions that are applicable to state agencies. Section 287.012, F.S., establishes procurement requirements that are applicable to state agencies. The corporation maintains that these exemptions are warranted in view of its status as a not-for-profit corporation.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 37-0; House 118-0*