

CHAPTER 2010-182

Council Substitute for House Bill No. 7129

An act relating to military support; amending s. 163.3175, F.S.; providing applicability of provisions governing compatibility of land development with military installations under the Local Government Comprehensive Planning and Land Development Regulation Act to specified local governments and associated military installations; authorizing the Florida Council on Military Base and Mission Support to recommend changes to such military installations and local governments based on a base's potential for impacts from encroachment and incompatible land uses and development; requiring affected local governments to transmit to the commanding officer of a military installation information relating to certain proposed changes to comprehensive plans, plan amendments, and proposed changes to land development regulations; requiring local governments to transmit, at the request of a commanding officer, copies of applications for development orders requesting specified variances or waivers within a zone of influence of a military installation; requiring a local government, military installation, the state land planning agency, and other parties to enter into mediation if a local government does not adopt criteria and address compatibility issues relating to lands adjacent to or closely proximate to existing military installations in its future land use plan element of a comprehensive plan by a specified date; authorizing notification of the Administration Commission if the local government comprehensive plan does not contain criteria addressing compatibility by a specified date; authorizing the imposition of sanctions by the Administration Commission; eliminating definitions; amending s. 163.3177, F.S.; specifying factors to be considered with respect to criteria used to achieve compatibility of lands adjacent to military installations in a future land use plan element of a comprehensive plan; amending s. 196.061, F.S.; providing that valid military orders transferring a military servicemember are sufficient to maintain permanent residence status of the servicemember and his or her spouse for purposes of such determination by a property appraiser; amending s. 455.02, F.S.; authorizing temporary professional licensure by the Department of Business and Professional Regulation of the spouses of certain active duty members of the Armed Forces; providing application requirements; requiring criminal history checks and fees; amending s. 250.10, F.S.; authorizing the Adjutant General to employ a second Assistant Adjutant General for Army; revising accreditation standards for educational institutions with respect to the Educational Dollars for Duty education assistance program; providing an effective date.

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

Section 1. Section 163.3175, Florida Statutes, is amended to read:

163.3175 Legislative findings on compatibility of development with military installations; exchange of information between local governments

and military installations.—

(1) The Legislature finds that incompatible development of land close to military installations can adversely affect the ability of such an installation to carry out its mission. The Legislature further finds that such development also threatens the public safety because of the possibility of accidents occurring within the areas surrounding a military installation. In addition, the economic vitality of a community is affected when military operations and missions must relocate because of incompatible urban encroachment. Therefore, the Legislature finds it desirable for the local governments in the state to cooperate with military installations to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in this state.

(2) Certain major military installations, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others. Consequently, this section and the provisions in s. 163.3177(6)(a), relating to compatibility of land development with military installations, apply to specific affected local governments in proximity to and in association with specific military installations, as follows:

(a) Avon Park Air Force Range, associated with Highlands, Okeechobee, Osceola, and Polk Counties and Avon Park, Sebring, and Frostproof.

(b) Camp Blanding, associated with Clay, Bradford, and Putnam Counties.

(c) Eglin Air Force Base and Hurlburt Field, associated with Gulf, Okaloosa, Santa Rosa, and Walton Counties and Cinco Bayou, Crestview, Destin, DeFuniak Springs, Fort Walton Beach, Freeport, Laurel Hill, Mary Esther, Niceville, Shalimar, and Valparaiso.

(d) Homestead Air Reserve Base, associated with Miami-Dade County and Homestead.

(e) Jacksonville Training Range Complex, associated with Lake, Marion, Putnam, and Volusia Counties.

(f) MacDill Air Force Base, associated with Tampa.

(g) Naval Air Station Jacksonville, Marine Corps Support Facility-Blount Island, and outlying landing field Whitehouse, associated with Jacksonville.

(h) Naval Air Station Key West, associated with Monroe County and Key West.

(i) Naval Support Activity Panama City, associated with Bay County, Panama City, and Panama City Beach.

(j) Naval Air Station Pensacola, associated with Escambia County.

(k) Naval Air Station Whiting Field and its outlying landing fields, associated with Santa Rosa and Escambia Counties.

(l) Naval Station Mayport, associated with Atlantic Beach and Jacksonville.

(m) Patrick Air Force Base and Cape Canaveral Air Force Station, associated with Brevard County and Satellite Beach.

(n) Tyndall Air Force Base, associated with Bay County and Mexico Beach and Parker.

(3) The Florida Council on Military Base and Mission Support may recommend to the Legislature changes to the military installations and local governments specified in subsection (2) based on a military base’s potential for impacts from encroachment, and incompatible land uses and development.

(4)(2) Each affected local government county in which a military installation is either wholly or partially located and each affected local government must transmit to the commanding officer of the relevant associated that installation or installations information relating to proposed changes to comprehensive plans, plan amendments, and proposed changes to land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation. At the request of the commanding officer, affected local governments must also transmit to the commanding officer copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or noise attenuation reduction requirements within areas defined in the local government’s comprehensive plan as being in a zone of influence of the military installation. Each county and affected local government shall provide the military installation an opportunity to review and comment on the proposed changes.

(5)(3) The commanding officer or his or her designee may provide comments to the county or affected local government on the impact such proposed changes may have on the mission of the military installation. Such comments may include:

(a) If the installation has an airfield, whether such proposed changes will be incompatible with the safety and noise standards contained in the Air Installation Compatible Use Zone (AICUZ) adopted by the military installation for that airfield;

(b) Whether such changes are incompatible with the Installation Environmental Noise Management Program (IENMP) of the United States Army;

(c) Whether such changes are incompatible with the findings of a Joint Land Use Study (JLUS) for the area if one has been completed; and

(d) Whether the military installation’s mission will be adversely affected by the proposed actions of the county or affected local government.

~~(6)(4) The county or affected local government shall take into consideration any comments provided by the commanding officer or his or her designee pursuant to subsection (4) when making such decision regarding comprehensive planning or land development regulation. The county or affected local government shall forward a copy of any such comments regarding comprehensive plan amendments to the state land planning agency.~~

~~(7)(5) To facilitate the exchange of information provided for in this section, a representative of a military installation acting on behalf of all military installations within that jurisdiction shall be included as an ex officio, nonvoting member of the county’s or affected local government’s land planning or zoning board.~~

~~(8)(6) The commanding officer is encouraged to provide information about any community planning assistance grants that may be available to a county or affected local government through programs such as those of the federal Office of Economic Adjustment as an incentive for communities to participate in a joint planning process that would facilitate the compatibility of community planning and the activities and mission of the military installation.~~

~~(9)(7) If a local government, as required under s. 163.3177(6)(a), does not adopt criteria and address compatibility of lands adjacent to or closely proximate to existing military installations in its future land use plan element by June 30, 2012, the local government, the military installation, the state land planning agency, and other parties as identified by the regional planning council, including, but not limited to, private landowner representatives, shall enter into mediation conducted pursuant to s. 186.509. If the local government comprehensive plan does not contain criteria addressing compatibility by December 31, 2013, the agency may notify the Administration Commission. The Administration Commission may impose sanctions pursuant to s. 163.3184(11).~~

As used in this section, the term:

~~(a) “Affected local government” means a municipality adjacent to or in close proximity to the military installation as determined by the state land planning agency.~~

~~(b) “Military installation” means a base, camp, post, station, airfield, yard, center, home port facility for any ship, or other land area under the jurisdiction of the Department of Defense, including any leased facility. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.~~

Section 2. Paragraph (a) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to paragraph (11)(d), as overlays on the future land use map. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives. The future land use plan shall be based upon surveys, studies, and data regarding the area, including the amount of land required to accommodate anticipated growth; the projected population of the area; the character of undeveloped land; the availability of water supplies, public facilities, and services; the need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community; the compatibility of uses on lands adjacent to or closely proximate to military installations; lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02; the discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; greenhouse gas reduction strategies; and, in rural communities, the need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy. The future land use plan may designate areas for future planned development use involving combinations of types of uses for which special regulations may be necessary to ensure development in accord with the principles and standards of the comprehensive plan and this act. The future land use plan element shall include criteria to be used to achieve the compatibility of lands adjacent or closely proximate to military installations, considering factors identified in s. 163.3175(5), and lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02. In addition, for rural communities, the amount of land designated for future planned industrial use shall be based upon surveys and studies that reflect the need for job creation, capital investment, and the necessity to strengthen and diversify the local economies, and may not be limited solely by the projected population of the rural community. The future land use plan of a county may also designate areas for possible future municipal incorporation. The land use maps or map series shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection. For coastal counties, the future land use element must include, without limitation, regulatory incentives and criteria that encourage the

preservation of recreational and commercial working waterfronts as defined in s. 342.07. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use. The failure by a local government to comply with these school siting requirements will result in the prohibition of the local government's ability to amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local government for purposes of identifying the land use categories in which public schools are an allowable use are exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The future land use element shall include criteria that encourage the location of schools proximate to urban residential areas to the extent possible and shall require that the local government seek to collocate public facilities, such as parks, libraries, and community centers, with schools to the extent possible and to encourage the use of elementary schools as focal points for neighborhoods. For schools serving predominantly rural counties, defined as a county with a population of 100,000 or fewer, an agricultural land use category is eligible for the location of public school facilities if the local comprehensive plan contains school siting criteria and the location is consistent with such criteria. Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of lands adjacent or closely proximate to existing military installations, or lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02, in their future land use plan element shall transmit the update or amendment to the state land planning agency by June 30, 2012.

Section 3. Section 196.061, Florida Statutes, is amended to read:

196.061 Rental of homestead to constitute abandonment.—The rental of an entire dwelling previously claimed to be a homestead for tax purposes shall constitute the abandonment of said dwelling as a homestead, and said abandonment shall continue until such dwelling is physically occupied by the owner thereof. However, such abandonment of such homestead after January 1 of any year shall not affect the homestead exemption for tax purposes for that particular year so long as this provision is not used for 2 consecutive years. The provisions of this section shall not apply to a member of the Armed Forces of the United States whose service in such forces is the result of a mandatory obligation imposed by the federal Selective Service Act or who volunteers for service as a member of the Armed Forces of the United States. Moreover, valid military orders transferring such member shall be sufficient to maintain permanent residence, for the purpose of s. 196.015, for the member and his or her spouse.

Section 4. Section 455.02, Florida Statutes, is amended to read:

455.02 Licensure of members of the Armed Forces in good standing with administrative boards and their spouses.—

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of becoming such a member, was in good standing with any administrative board of the state and was entitled to practice or engage in his or her profession or vocation in the state shall be kept in good standing by such administrative board, without registering, paying dues or fees, or performing any other act on his or her part to be performed, as long as he or she is a member of the Armed Forces of the United States on active duty and for a period of 6 months after discharge from active duty as a member of the Armed Forces of the United States, if provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

(2) The boards listed in s. 20.165 shall adopt promulgate rules that exempt exempting the spouse spouses of a member members of the Armed Forces of the United States from licensure renewal provisions, but only in cases of his or her absence from the state because of his or her spouse's their spouses' duties with the Armed Forces.

(3)(a) The department may issue a temporary professional license to the spouse of an active duty member of the Armed Forces of the United States if the spouse applies to the department in the format prescribed by the department. An application must include proof that:

1. The applicant is married to a member of the Armed Forces of the United States who is on active duty.

2. The applicant holds a valid license for the profession issued by another state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction.

3. The applicant's spouse is assigned to a duty station in this state and that the applicant is also assigned to a duty station in this state pursuant to the member's official active duty military orders.

4.a. A complete set of the applicant's fingerprints has been submitted to the Department of Law Enforcement for a statewide criminal history check.

b. The Department of Law Enforcement shall forward the fingerprints submitted pursuant to sub-subparagraph a. to the Federal Bureau of Investigation for a national criminal history check. The department shall, and the board may, review the results of the criminal history checks according to the level 2 screening standards in s. 435.04 and determine whether the applicant meets the licensure requirements. The costs of fingerprint processing shall be borne by the applicant. If the applicant's fingerprints are submitted through an authorized agency or vendor, the

agency or vendor shall collect the required processing fees and remit the fees to the Department of Law Enforcement.

(b) An application must be accompanied by an application fee prescribed by the department that is sufficient to cover the cost of issuance of the temporary license.

(c) A temporary license expires 6 months after the date of issuance and is not renewable.

Section 5. Subsections (4) and (7) of section 250.10, Florida Statutes, are amended to read:

250.10 Appointment and duties of the Adjutant General.—

(4)(a) The Adjutant General shall, subject to confirmation by the Senate, employ a federally recognized officer of the Florida National Guard, who has served in the Florida Army Guard for the preceding 5 years and attained the rank of colonel or higher at the time of appointment, to be the Assistant Adjutant General for Army.

(b) The Adjutant General may, subject to confirmation by the Senate, employ an additional federally recognized officer of the Florida National Guard, who has served in the Florida Army Guard for the preceding 5 years and attained the rank of colonel or higher at the time of appointment, to be a second Assistant Adjutant General for Army.

Each The officer shall perform the duties required by the Adjutant General.

(7) The Adjutant General shall develop an education assistance program for members in good standing of the Florida National Guard who enroll in an authorized course of study at a public or nonpublic institution of higher learning in the state which has been accredited by an accrediting body recognized by the United States Department of Education or licensed by the Commission for Independent Education the Commission on Colleges of the Southern Association of Colleges and Schools. This program shall be known as the Educational Dollars for Duty program (EDD).

(a) The program shall set forth application requirements, including, but not limited to, requirements that the applicant:

1. Be 17 years of age or older.
2. Be presently domiciled in the state.
3. Be an active drilling member and in good standing in the Florida National Guard at the beginning of and throughout the entire academic term for which benefits are received.
4. Maintain continuous satisfactory participation in the Florida National Guard for any school term for which exemption benefits are received.

5. Upon enrollment in the program, complete a memorandum of agreement to comply with the rules of the program and serve in the Florida National Guard for the period specified in the member’s enlistment or reenlistment contract.

(b) The program shall define those members of the Florida National Guard who are ineligible to participate in the program and those courses of study which are not authorized for the program.

1. Ineligible members include, but are not limited to, any member, commissioned officer, warrant officer, or enlisted person who has obtained a master’s degree using the program.

2. Courses not authorized include noncredit courses, courses that do not meet degree requirements, courses that do not meet requirements for completion of career training, or other courses as determined by program definitions.

3. College-preparatory courses are authorized for the program.

(c) The Adjutant General shall adopt rules for the overall policy, guidance, administration, implementation, and proper use of the program. Such rules must include, but not be limited to, guidelines for certification by the Adjutant General of a guard member’s eligibility, procedures for notification to an institution of a guard member’s termination of eligibility, and procedures for restitution when a guard member fails to comply with the penalties described in this section.

Section 6. This act shall take effect July 1, 2010.

Approved by the Governor June 1, 2010.

Filed in Office Secretary of State June 1, 2010.