

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1235 Military and Veteran Support

SPONSOR(S): Latvala

TIED BILLS: **IDEN./SIM. BILLS:** SB 1588

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Banner	Miller
2) Appropriations Committee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The State of Florida provides many benefits to active duty servicemembers and veterans of the United States Armed Forces. The bill contains provisions relating to veteran-owned businesses, employment of military spouses and student veteran support. Specifically, the bill:

- Requires the Florida Department of Veterans Affairs (FDVA) to create a website to streamline the procedure for applying for certification as a veteran business enterprise;
- Authorizes the Florida Supreme Court to admit the spouse of a military servicemember to practice law in this state provided that the Florida Board of Bar Examiners certifies that the spouse meets certain criteria;
- Requires the Department of Education (DOE) to expedite the processing of educator certification requests for the spouse of a military servicemember and extends the validity period of a temporary educator certificate for two additional years; and
- Provides legislative intent regarding the collaboration between the State Board of Education and the Board of Governors on issues related to academic credit for military training and coursework, student progression and success, and student services.

The bill has an indeterminate fiscal impact on FDVA and DOE.

The bill takes effect July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Veteran Business Enterprise Opportunity Act

Present Situation

The intent of the Florida Veteran Business Enterprise Opportunity Act (act)¹ is to rectify the economic disadvantage of service-disabled veterans and to recognize wartime veterans for their sacrifices.

The act creates a certification process within the Department of Management Services (DMS) for service-disabled veteran business enterprises (VBEs). The act also creates a tiebreaker preference for VBEs by requiring a state agency to award a procurement or contract to a bidder who is a certified VBE if two or more bids, proposals, or replies for the procurement of commodities or contractual services are equal with respect to all relevant considerations including price, quality, and service.² However, if a certified VBE and one or more VBE or businesses eligible for another statutory vendor preference, such as an MBE, submit bids or proposals that are equal with respect to all relevant considerations including price, quality, and service, the state agency must award the contract or proposal to the business having the smallest net worth.³

In order to become certified as a VBE, the owners and the business must satisfy statutory eligibility requirements. In order to be considered a “service-disabled veteran” eligible for certification, the veteran must be a permanent resident of Florida who has a service-connected disability as determined by the U.S. Department of Veterans Affairs or who was terminated from military service by reason of disability by the U.S. Department of Defense.⁴ In order to be considered a “wartime veteran” eligible for certification, the veteran must:⁵

- Be a wartime veteran as defined in s. 1.01(14), F.S.⁶; or
- Be a veteran of a period of war, as used in 38 U.S.C. s. 1521, who served in the active military, naval, or air service:
 - For 90 days or more during a period of war;
 - During a period of war and was discharged or released from such service for a service-connected disability;
 - For a period of 90 consecutive days or more and such period began or ended during a period of war; or
 - For an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

In order to be certified as a VBE, a business enterprise must be an independently owned and operated business that:⁷

¹ Section 295.187, F.S.

² Section 295.187(4)(a), F.S.

³ Section 295.187(4)(b), F.S.

⁴ Section 295.187(3)(b), F.S.

⁵ Section 295.187(3)(d), F.S.

⁶ Section 1.01(14), F.S. defines a “veteran” as a person so served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or during certain periods of wartime service. See s. 1.01(14)(a)-(i), F.S.

⁷ Section 295.187(3)(c), F.S.

- Employs 200 or fewer permanent full-time employees;
- Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments;
- Is organized to engage in commercial transactions;
- Is domiciled in Florida;
- Is at least 51 percent owned by one or more wartime veterans or service-disabled veterans; and
- The management and daily business operations of which are controlled by one or more wartime veterans or service-disabled veterans or, for a service-disabled veteran having a permanent and total disability, by the spouse or permanent caregiver of the veteran.

The certification process requires applicants to submit documentation demonstrating that the business meets the above-listed requirements. Certification is renewed biennially⁸ and may be revoked for one year if the VBE fails to inform DMS within 30 days after any event that may significantly affect the certification of the business, including, but not limited to a change in ownership or change in management and daily business operations.⁹

The Florida Department of Veterans' Affairs (FDVA) must:¹⁰

- Assist DMS in establishing a certification procedure, which must be reviewed biennially and updated as necessary;
- Identify eligible veteran business enterprises by any electronic means, including electronic mail or internet website, or by any other reasonable means;
- Encourage and assist eligible veteran business enterprises to apply for certification under this section;
- Provide information regarding services that are available from the Office of Veterans' Business Outreach of the Florida Small Business Development Center to veteran business enterprises.

Effect of Proposed Changes

The bill requires FDVA to create a website to streamline the procedure for applying for certification as a veteran business enterprise.

Supreme Court Admitting Attorneys to Practice Law

Present Situation

The Florida Supreme Court has the exclusive jurisdiction to regulate the admission of attorneys to The Florida Bar and to discipline members of the Bar.¹¹ Membership in The Florida Bar requires both admission by the Supreme Court and maintaining membership pursuant to applicable Florida Bar rules.¹² Applicants to the Bar must undergo a character and fitness investigation by the Florida Board of Bar Examiners and pass the bar examination.¹³

The Florida Bar has petitioned the Florida Supreme Court to amend the Rules Regulating the Florida Bar to include a new subchapter 21, authorizing military spouses to practice law in Florida.¹⁴ Subchapter 21 would grant full membership to the Florida Bar to spouse of an active duty service member stationed in Florida. The spouse must:

⁸ Section 295.187(5)(b), F.S.

⁹ Section 295.187(5)(d), F.S.

¹⁰ Section 295.187(6), F.S.

¹¹ Article V, s. 15, Fla. Const.

¹² R. Regulating Fla. Bar 1-3.1.

¹³ R. Relating to Admissions to the Fla. Bar. 2-10.

¹⁴ *In Re: Amendments to the Rules Regulating the Florida Bar –Chapter 21 Military Spouse Authorization to Engage in the Practice of Law in Florida* (Feb. 1, 2017).

- Be identified and enrolled in the Department of Defense’s “Defense Enrollment Eligibility Report System” as the spouse of a full-time active duty member of the United States armed forces or a member of the Guard or Reserve components who is ordered to extended activity duty and transferred from outside of Florida to a duty station in Florida;
- Hold a J.D. or LL.B. degree from a law school accredited by the American Bar Association;
- Be admitted after passing a written examination to the practice of law in another jurisdiction;
- Be an active member of the bar in good standing who is eligible to practice in at least one jurisdiction;
- Be a member of good standing in every jurisdiction where the applicant has been admitted to practice law;
- Establish the applicant is not subject to discipline or a pending disciplinary matter in another jurisdiction;
- Not have failed the Florida Bar examination within the past 5 years or previously been denied admission to the Florida Bar for reasons of character and fitness;
- Reside in Florida with the service member stationed in Florida or provide evidence the applicant intends to reside in Florida with the service member within six months;
- Certify to having read the Florida Rules of Discipline,¹⁵ the Florida Rules of Professional Conduct¹⁶ and subchapter chapter 21 and agree to submit to the jurisdiction of the Supreme Court of Florida for disciplinary purposes;
- Submit an application to the Florida Board of Bar Examiners in the form required by that board, including a copy of the military member’s orders to a duty station within Florida;
- Pay an application fee established by the Florida Board of Bar Examiners; and
- Establish the applicant’s qualifications as to character and fitness to the satisfaction of the Florida Board of Bar Examiners.¹⁷

The spouse must complete the basic skills course requirement within six months of initial certification and must complete ten hours of continuing legal education during each year the authorization is renewed, including 2 hours of ethics each year.¹⁸

The spouse is granted full membership, but must associate with a certified lawyer if the spouse has not engaged in the active practice of law for at least three years cumulatively.¹⁹ The spouse must be reauthorized annually and is responsible for the payment of annual membership fees at the same rate as other active members.

A spouse is no longer eligible under this rule if:

- The service member leaves active duty;
- The spouse and service member divorce;
- The service member receives a permanent transfer outside of Florida, except that the certified lawyer may continue to practice pursuant to this chapter if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized until the service member is assigned to a location with dependents authorized;
- The spouse relocates outside for Florida for more than six continuous months;

¹⁵ R. Regulating Fla. Bar Ch. 3.

¹⁶ R. Regulating Fla. Bar Ch. 4.

¹⁷ *Florida Bar Rules Proposals*, The Florida Bar News (Jan. 1, 2017).

¹⁸ *Id.*

¹⁹ *Id.*

- The spouse requests certification be terminated; or
- The spouse becomes a member of the Florida Bar by meeting admission requirements.²⁰

The certification may be revoked if the spouse fails to pay membership fees, fails to meet the continuing education requirement, takes and fails the Florida Bar Examination or the character and fitness investigation, or is disbarred or suspended by another jurisdiction.²¹

The Florida Bar Board of Governors approved the proposed amendment on December 9, 2016 without objection.²²

Effect of Proposed Changes

The bill authorizes the Florida Supreme Court to admit the spouse of a military servicemember, as defined in s. 250.01, F.S., to practice law in this state given that he or she is certified by the Florida Board of Bar Examiners. Certification by the board is contingent on the applicant:

- Registering in the Defense Enrollment Eligibility Reporting System established by the U.S. Department of Defense;
- Holding a Juris Doctor or Bachelor of Laws from a law school accredited by the American Bar Association;
- Being licensed to practice law in another state, the District of Columbia, or a territory of the U.S. after having passed a written examination;
- Establishing that he or she is a member in good standing in all jurisdictions where licensed to practice law and that he or she is not currently subject to discipline or a pending disciplinary matter relating to the practice of law;
- Demonstrating his or her presence in Florida as a spouse of a servicemember; and
- Otherwise fulfilling all requirements for admission to practice law in Florida.

Additionally, the Florida Supreme Court may specify circumstances under which the license and authorization to practice law in Florida of an attorney licensed in accordance with the above requirements terminates.

Educator Certification Requirements

Present Situation

In order to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the Florida Department of Education (DOE).²³ Persons seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must be certified.²⁴ The purpose of certification is to require school-based personnel to “possess the

²⁰ *Id.*

²¹ *Id.*

²² *In Re: Amendments to the Rules Regulating the Florida Bar –Chapter 21 Military Spouse Authorization to Engage in the Practice of Law in Florida* (Feb. 1, 2017).

²³ Sections 1012.55(1) and 1002.33(12)(f), F.S.

²⁴ Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-10502, F.A.C.; ss.1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in public schools.”²⁵

Full reciprocity is granted to educators who hold a valid professional standard teaching certificate for a subject area issued by another state or the National Board for Professional Teaching Standards (NBPTS).²⁶ These individuals are deemed to have met the requirements for Florida professional certification, including mastery of general knowledge, subject area knowledge and professional preparation and education competence.²⁷ Partial reciprocity is granted to educators who hold American Board for Certification of Teacher Excellence (ABCTE) certification. ABCTE certification satisfies all requirements for a professional certificate, except the professional education competence demonstration requirement. Individuals who hold this certification must complete a professional education competence demonstration program.²⁸ Individuals who hold an out-of-state, NBPTS, or ABCTE certification must apply for a Florida professional certificate. In each case, the certificate must be comparable to, and require the same or higher level of training as, the Florida subject area certification.²⁹

Current law requires that upon the receipt of a license application the agency examine the application and, within 30 days, provide notification of any errors or omissions. Unless a shorter time frame is provided by law, an application for a licensee must be approved or denied within 90 days after the receipt of the completed application.³⁰

In addition to educator certificates, DOE may issue temporary certificates to applicants who:

- meet the basic eligibility requirements for certification;³¹
- obtain full-time employment in a position that requires a Florida educator certificate by a school district or private school that has a DOE-approved professional education competence demonstration program;³² and
- do one of the following:
 - demonstrate mastery of subject area knowledge (e.g., passage of the appropriate subject area test);³³ or
 - complete the required degree or content course specified in state board rule for subject area specialization³⁴ and attain at least a 2.5 grade point average on a 4.0 scale in the subject area courses.³⁵

²⁵ Section 1012.54, F.S.; see rule 6A-4.001(1), F.A.C.

²⁶ Section 1012.56(5)(e)-(f), F.S.; see rules 6A-4.002(1)(i)-(j) and 6A-4.003(2), F.A.C. (flush left provisions following paragraph (2)(e)); Florida Department of Education, *Reciprocity for Out-of-State Teachers and Administrators*, <http://www.fldoe.org/teaching/certification/pathways-routes/certified-teacher-or-administrator.html> (last visited March 13, 2017).

²⁷ Section 1012.56(3)(c)-(d), (5)(e)-(f), and (6)(c)-(d), F.S.; rule 6A-4.002(1)(i)1. And (j), F.A.C.

²⁸ Section 1012.56(5)(f), F.S.; Florida Department of Education, *Professional Preparation and Education Competence*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/professional-preparation-edu-competenc.html> (last visited March 13, 2017).

²⁹ See Rule 6A-4.002(1)(i) and (j), F.A.C.

³⁰ Section 120.60(1), F.S.

³¹ Section 1012.5(2)(a)-(f) and (7)(b), F.S.

³² Section 1012.56(1)(b), F.S.; rule 6A-4.004(1)(a)2., F.A.C.

³³ Section 1012.56(7)(b), F.S.; Florida Department of Education, *Subject Area Knowledge*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/subject-area-knowledge.html> (last visited March 13, 2017).

³⁴ Section 1012.56(7)(b), F.S. The degree and content requirements are specified in ch. 6A-4, F.A.C.

³⁵ Section 1012.56(2)(c), F.S.; see Florida Department of Education, *Certificate Types and Requirements*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/> (last visited March 13, 2017).

An educator who is employed under a temporary certificate must demonstrate mastery of general knowledge within one calendar year after employment in order to remain employed in a position that requires a certificate.³⁶ If the educator is employed under contract, the calendar year deadline for demonstrating mastery of general knowledge may be extended through the end of the school year.³⁷ An educator who has not demonstrated mastery of general knowledge may not be employed or continue to be employed in a position requiring a temporary certificate beyond this time period.³⁸ A temporary certificate is valid for 3 years and is nonrenewable.³⁹

DOE may extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including demonstrating mastery of general knowledge, were not completed due to serious illness or injury of the applicant or other extraordinary extenuating circumstance.⁴⁰ Upon the approval of the Commissioner of Education, DOE may reissue the temporary certificate for 2 additional years.⁴¹

According to DOE staff, 90 percent of the current educator certification applications are evaluated and processed within 30 days of the determination of the completed application and the remaining 10 percent within 40 days.⁴²

Effect of Proposed Changes

The bill requires DOE to process and approve or deny educator certification applications within 60 calendar days after the stamped receipted date of the completed application for an applicant who:

- Is the spouse of a servicemember, as defined in section 250.01(19), F.S.;
- Is stationed in the state; and
- Holds a current professional standard teaching certificate issued by another state.

The bill also allows DOE to extend the validity period of a temporary certificate for 2 additional years if the applicant is the spouse of a servicemember stationed in the state.

Continuing Education of Veterans

Present Situation

More than 1.5 million veterans live in Florida, including more than 231,000 veterans of the Afghanistan and Iraq wars, and roughly 506,000 Vietnam-era veterans.⁴³

Florida provides many educational benefits for veterans including awarding academic credit for military training and coursework, priority registration, and tuition and fee waivers.

Members of the U.S. Armed Forces are eligible to earn academic college credit at public postsecondary educational institutions for college-level training and education acquired in the military that is

³⁶ Section 1012.56(7), F.S. (flush –left provisions at end of subsection); *see also* ss. 1012.56(3), F.S. for acceptable means of demonstrating mastery of subject area knowledge.

³⁷ *Id.*

³⁸ Section 1012.56(7), F.S. (flush –left provisions at end of subsection)

³⁹ *Id.*

⁴⁰ Section 1012.56(7), F.S.; rule 6A-4.002, F.A.C.

⁴¹ *Id.*

⁴² Benjamin Palazesi, Government Relations, Florida Department of Education, Re: Teacher Certification (March 21, 2017).

⁴³ Department of Veterans Affairs, Annual Report Fiscal Year 2015-16, available at <http://floridavets.org/wp-content/uploads/2016/11/2016-Annual-Report.pdf> (accessed March 14, 2017).

recognized by the American Council on Education. The Board of Governors (BOG) by regulations and the State Board of Education (SBE) by rules must provide procedures for credential evaluation and the award of academic credit, equivalency and alignment of military coursework with appropriate college courses, course descriptions, type and amount of college credit that may be awarded, and transfer of credit.⁴⁴ Awarded credit must be noted on the student's transcript and documentation of the credit equivalency evaluation must be maintained in the student veteran's file.⁴⁵

State universities and Florida College System (FCS) institutions offering priority course registration for a segment of the student population, or upon implementation of such a policy, must provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits. Individuals are eligible for priority course registration until the expiration of the GI educational benefits.⁴⁶ Independent postsecondary educational institutions are encouraged to provide priority course registration in the same manner as public postsecondary institutions.⁴⁷

Florida offers a number of tuition assistance programs for veterans. The Congressman C.W. Bill Young Veteran Tuition Waiver Program provides an out-of-state fee waiver for honorably discharged veterans and those utilizing GI Bill educational benefits who physically reside in the state while enrolled in the institution.⁴⁸ In addition, Florida law waives undergraduate tuition for recipients of a Purple Heart or other superior combat decoration who are currently, or were at the time of the military action that led to the award, a resident of the state.⁴⁹ Current law also provides for tuition deferments for veterans using GI Bill educational benefits.⁵⁰

Many of the state's public postsecondary institutions have also established student veteran centers to provide guidance and assistance to students as they transition from military service to campus life. Per federal regulation,⁵¹ every postsecondary education institution that is approved for veterans' education and training must have a school certifying official on staff to certify that veterans are enrolled, are making adequate progress, and thereby remain eligible for educational benefits.

At state universities, these individuals are also responsible for assisting student veterans in obtaining academic advising, achieving course registration, and gaining access to student support services available through the university.⁵² Additionally, in response to identified best practices presented at State University System (SUS) workshops on serving student veterans, some of the state universities have designated faculty and/or staff as veteran liaisons within academic discipline areas.⁵³ Examples of trained veteran liaisons are found in Florida Atlantic University's designated veteran student resource team, the University of South Florida's Office of Veterans Services with a fulltime staff dedicated to providing resources and tools to student veterans, and Florida State University's Veteran Student Center with fulltime staff and appointed veteran liaisons.

The Florida Association of Veteran Education Specialists (FAVES), a 501(c)(3) non-profit organization, promotes professional competency and communication among VA School Certifying Officials through

⁴⁴ Section 1004.96, F.S.

⁴⁵ Regulation 6.013, Board of Governors; rule 6A-14.0302, F.A.C.

⁴⁶ Section 1004.075, F.S.

⁴⁷ Section 1005.09, F.S.

⁴⁸ Section 1009.26(13), F.S.

⁴⁹ Section 1009.26(8), F.S.

⁵⁰ Section 1009.27(2), F.S.

⁵¹ 38 CFR s. 21.4266(a)(2)

⁵² Email from Richard Stevens, Assistant Vice Chancellor, Academic and Student Affairs, Florida Board of Governors, RE: Veteran Student Centers (March 14, 2017).

⁵³ *Id.*

State and regional conferences.⁵⁴ The FAVES Board of Directors includes representatives from the U.S. Department of Veterans Affairs and the Florida Department of Veterans' Affairs, State Approving Agency for Veterans' Education and Training.

Effect of Proposed Changes

In an effort to provide veterans increased access to postsecondary educational opportunities and success, the bill directs the Board of Governors and the State Board of Education to work collaboratively to:

- Align existing degree programs with applicable military training and experience to maximize academic credit awarded for such training and experience.
- Appoint and train specific faculty within each degree program as liaisons and contacts for veterans.
- Incorporate outreach services tailored to disabled veterans into existing disability services on campus to make available information on disability services provided by the U.S. Department of Veterans Affairs and other federal and state agencies, and private entities.
- Facilitate statewide meetings for personnel who provide student services for veterans to discuss and develop best practices, exchange ideas and experiences, and attend presentations by individuals with expertise in the unique needs of veterans.
- Make every effort to provide veterans with sufficient courses required for graduation, including, but not limited to, giving priority registration to veterans.

B. SECTION DIRECTORY:

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| Section 1 | Amends s. 295.187, F.S., relating to the Florida Veteran Business Enterprise Opportunity Act. |
| Section 2 | Amends s. 454.021, F.S., relating to the Supreme Court admitting attorneys to practice law. |
| Section 3 | Amends s. 1012.56, F.S., relating to educator certification requirements. |
| Section 4 | Provides legislative intent to require collaboration between the State Board of Education and the Board of Governors of the State University System to achieve specified goals regarding educational opportunities for veterans. |
| Section 5 | Provides an effective date of July 1, 2017. |

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Section 1 of the bill requires FDVA to create a website for businesses to apply for certification as a Veteran Business Enterprise. The cost for the FDVA to create such website is unknown at this time.

⁵⁴ Florida Association of Veterans Education Specialists, *About Us*, available at <http://www.flfaves.org/about-us.php> (last visited March 20, 2017).

Section 3 of the bill requires DOE to expedite the processing of educator certification requests for spouses of military servicemembers stationed in Florida who current hold active Professional certificates from other states. DOE is currently in the process of developing a new technology system to process educator certification requests. A new process to properly identify certificate evaluation requests for these individuals will need to be added to the new system. The fiscal impact associated with this requirement is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Education to adopt rules regarding extending validity of a temporary certificate if the applicant is a spouse of a servicemember stationed in Florida.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.