



Committee on Military & Veterans' Affairs

Meeting Packet

**Wednesday, February 20, 2008
2:30 PM – 4:00 PM
Room 12 HOB**



The Florida House of Representatives

Government Efficiency & Accountability Council

Committee on Military & Veterans' Affairs

Marco Rubio
Speaker

Stan Jordan
Chair

AGENDA

February 20, 2008

12 HOB 2:30 PM – 4:00 PM

- I. Welcome, call to order, roll call – Chair Jordan
- II. Discussion of FY2007-08 budget reductions for the Department of Military Affairs.
- III. Discussion of Committee on Military & Veterans' Affairs interim project report entitled "Military Base Encroachment: A White Paper."
- IV. Public Testimony
- V. Closing comments – Chair Jordan
- VI. Adjournment

INTERIM PROJECT REPORT

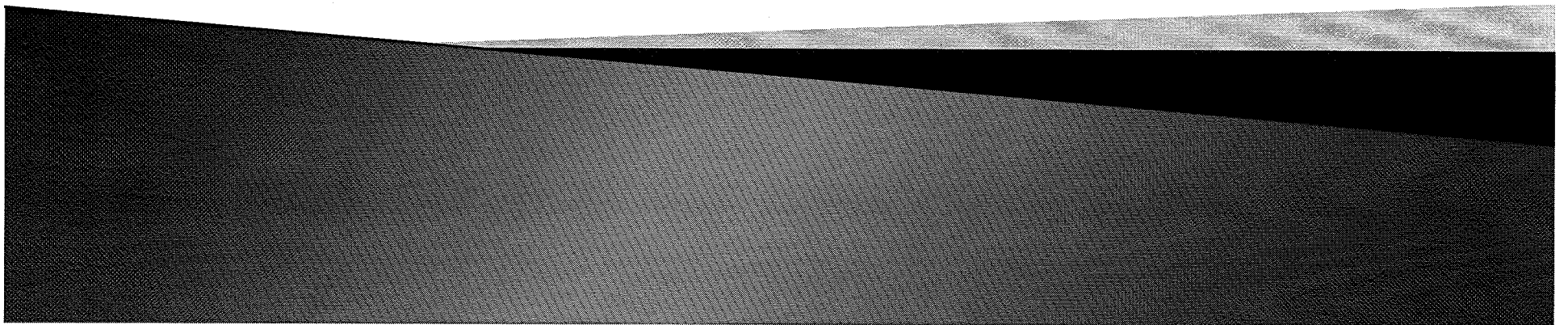
Due to its length, the interim project report entitled “Military Base Encroachment: A White Paper” is not included as part of this meeting packet.

The complete report may be found on the House website, myfloridahouse.gov, or obtained from House Print Services in Rm. 334, The Capitol.

Military Base Encroachment: A White Paper

Committee on Military & Veterans' Affairs

February 20, 2008



Purpose of the Project

- ▶ **The purpose of the interim project was to compile information regarding the incompatible use and development of lands affected by military training and testing operations**
- ▶ **The White Paper includes a general discussion of encroachment and summaries of several related Florida laws, laws of other states, and federal laws**
- ▶ **The White Paper also discusses and includes responses to comprehensive staff surveys sent to 44 local governments and 16 military installations in Florida**

The Military Presence in Florida

- ▶ According to a new economic impact study commissioned by the Florida Defense Alliance, about 60,000 active duty sailors, marines, soldiers, and air force personnel, along with almost 27,000 civilians, serve at 20 military installations in Florida
- ▶ The Panhandle, home to five U.S. Air Force and Navy installations, represents one of the largest open-air military training areas in the United States and includes Eglin Air Force Base, the largest U.S. Air Force base in the nation
- ▶ In 2005, defense-related spending accounted for about 732,300 direct and indirect jobs in Florida
- ▶ Every Florida county benefits from defense-related spending, and all but 6 have at least \$3 million per year in direct defense-related spending

Overall Economic Impact of the Military in Florida

In 2005, the military and related defense industries were responsible for \$52 billion in gross state product, which is roughly equivalent to total spending by the state in FY 2007-08, excluding federal dollars

(Gross state product is defined as “the sum of the money values of all final goods and services produced in the economy and sold on organized markets during a specified period of time.”)

What is Encroachment?

- ▶ **Encroachment – a term used by the Department of Defense to refer to incompatible uses of land, air, water, and other resources – is the cumulative impact of urban development that interferes with the military’s ability to carry out testing and training missions**
- ▶ **In other words, encroachment occurs when land affected by military training and testing activities is used in a manner that interferes with the military’s mission and creates safety or quality of life issues for civilians**

Is Encroachment a Problem in Florida?

- ▶ 13 military installations report that incompatible development is a present or foreseeable problem, while 3 military installations report that it is not
- ▶ 7 local governments report that incompatible land development is a present or foreseeable problem, while 27 local governments report that it is not

How Does Incompatible Development Near Military Activities Affect Civilians?

- ▶ **Low flying, high performance military aircraft can create both noise and accident potential during landings, take-offs, and training exercises**
- ▶ **Ground training exercises - artillery firing ranges, maneuver areas, and aerial bombing ranges - may create noise and safety issues**

How Does Incompatible Development Specifically Affect Military Operations?

- ▶ **Excessive lighting interferes with night training missions**
- ▶ **Tall structures interfere with low-level aircraft operations**
- ▶ **Construction of water-based facilities, such as marinas, interferes with areas used for combat swimmers training**
- ▶ **Incompatible development interferes with electronic transmissions**
- ▶ **Incompatible development constrains or blocks lines of sight from instruments to launched rockets and/or launch pads**

How Does Incompatible Development Generally Effect the Military?

- ▶ **Incompatible development near military operations can restrict the ability of the military to train servicemembers and otherwise perform its present and future missions at Florida installations**
- ▶ **The overall readiness of the military may be compromised by eliminating or limiting unique training opportunities provided by Florida's distinctive geographic location and diverse landscapes**
- ▶ **Litigation, public complaints, and complaints to Congress seeking to force the military to cease or curtail operations that create noise or other impacts on residents**
- ▶ **If an installation is unable to fully perform its training or testing missions due to incompatible development, the federal government may transfer missions from Florida to installations located in other states or, in extreme cases, completely close Florida installations during future base realignment and closure reviews, potentially reducing the thousands of jobs and billions of dollars in economic activity generated by the military**

What type of development is compatible or incompatible with military operations?

- ▶ **Compatibility depends on the location and size of the military installation, training area, or testing range, the type and volume of activity, and the impacts that may be generated by the activity**
- ▶ **In general, land use activities such as lower employment density industrial and commercial uses are more compatible than population-sensitive land use activities such as homes, schools, office complexes, community centers, shopping malls, libraries, hospitals, day care facilities, long-term senior housing, and buildings housing religious services**
- ▶ **Tall structures that encroach into low-level aircraft flight routes may be inconsistent with Federal Aviation Administration regulations as well as incompatible with military air bases**
- ▶ **Conservation and open space land uses may be compatible; however, land uses that attract large numbers of birds may be incompatible with military airfields**

How has Florida Addressed Encroachment?

- ▶ In anticipation of the 2005 Base Realignment and Closure (BRAC) review, the 2004 Florida Legislature enacted significant legislation to address development of lands surrounding military installations
- ▶ Since then, the Department of Defense has recognized Florida as one of the leading states in the passage of laws addressing military installations and civilian encroachment

Statutory Land Use Planning Requirements

- ▶ **Local governments whose comprehensive plans did not already address compatibility of lands adjacent to or in close proximity to existing military installations were required to amend their comprehensive plans and transmit those amendments to the DCA by June 30, 2006**
- ▶ **The Evaluation and Appraisal Report (EAR) issued by these local governments every seven years must include an assessment of whether criteria adopted in the updates or amendments were successful in achieving compatibility with military installations**
- ▶ **In coordination with the DoD, the DCA must consider, as part of its criteria for review of local government comprehensive plans, compatibility issues of land adjacent to or in close proximity to military installations**

Statutory Notification Requirements

- ▶ Each county in which a military installation is either wholly or partially located, and each city adjacent to or in close proximity to a military installation, must provide the commanding officer of the installation with information relating to proposed land use changes which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation
- ▶ The military installation must have an opportunity to review and comment on the proposed changes
- ▶ Local governments are not required to implement any recommendations provided by the military

Local Government Compliance with Statutory Requirements

- ▶ 10 counties and 14 cities report that they have not complied with the statutory requirement to update their comprehensive plans by June 30, 2006 to include military compatibility criteria (8 counties and 7 cities have adopted updates)
- ▶ The DCA reports that “[a]bout 75% of the affected local governments have missed the June 30, 2006 due date”
- ▶ According to survey responses from the Air Force and Navy, local governments generally comply with statutory notification requirements and consider the military’s comments during the planning process

The Burt J. Harris, Jr., Private Property Rights Protection Act

- ▶ The Burt Harris Act was enacted by the Legislature in 1995 to address those situations where land use regulations impose undue restrictions on private property rights without amounting to traditional takings under federal or state eminent domain laws
- ▶ Under the Burt Harris Act, if a local government enacts regulations that severely restrict the use of private lands, the courts may find that the regulations impose an “inordinate burden” on private property owners, entitling those property owners to compensation from the governmental entity imposing the regulations
- ▶ Property owners may receive compensation for the actual loss to the fair market value of the real property caused by the regulation, interest, reasonable attorney’s fees, and costs

Land Conservation Partnerships

- ▶ Using Florida Forever dollars, Florida was the first state to partner with the DoD to purchase land for the dual purpose of protecting the environment and buffering a military installation from civilian development
- ▶ To date, Florida has invested more than \$750 million in state dollars, including Florida Forever dollars, to acquire more than 500,000 acres around military installations
- ▶ An additional 650,000 acres are slated for acquisition through the Florida Forever program

How Are Other States Addressing Encroachment?

- ▶ At least 20 states have enacted growth management laws to prevent or mitigate encroachment concerns
- ▶ States such as Arizona, California, Florida, Georgia, Oklahoma, South Carolina, Virginia, and Washington have been recognized as leaders in the field
- ▶ The White Paper summarizes certain laws in Arizona, California, Oklahoma, Virginia, and Washington
- ▶ The types of laws enacted by these states typically fall into three categories:
 1. Land Use Planning
 2. Notification of Military
 3. Land Conservation

What is the Federal Government's Role in Mitigating or Preventing Encroachment?

- ▶ **The role of the Federal Government has been to provide technical and financial assistance to state and local governments to facilitate comprehensive planning that provides for compatible development**
- ▶ **The role of the Federal Government in local land use planning and policy-setting is constitutionally limited so responsibility for local land use planning rests primarily with the states and local governments**
- ▶ **The Federal Government actively participates in land conservation partnerships and contributes funding to acquire lands to buffer installations and protect the environment**

Summary of Local Government Survey Responses

- ▶ Surveys were provided to 24 cities and 20 counties whose residents may be affected by military activities
- ▶ 90% of the counties and 92% of the cities responded
- ▶ 12 counties and 15 cities report that incompatible land development is not a present or foreseeable problem, while 4 counties and 3 cities report that it is a present or foreseeable problem
- ▶ 10 local governments report that residents are or may be exposed to accident potential from aircraft accidents or ordnance explosions
- ▶ 26 local governments report that residents are or may be affected by noise generated by either military aircraft or artillery
- ▶ 10 counties and 14 cities report that they have not complied with the statutory requirement to update their comprehensive plans by June 30, 2006 to include military compatibility criteria (8 counties and 7 cities have adopted updates)

Summary of Military Survey Responses

- ▶ Surveys were provided to 16 military installations
- ▶ 100% of the installations responded
- ▶ 13 installations report that encroachment is a current or foreseeable concern, while 3 report that it is not
- ▶ 15 installations report that local governments provide information regarding proposed land use changes, but Tyndall AFB reports that not all of the local governments within close proximity provide information
- ▶ 15 installations report that local governments generally implement the military's comments, but Tyndall AFB reports that local governments do not always implement recommendations provided by the installation
- ▶ All installations report a close working relationship with local governments and participate in the local planning process

Recommendations for Statutory Revisions

- ▶ **The local government and military installation survey responses include a wide variety of recommendations for statutory changes**
- ▶ **The recommendations were not evaluated by staff to determine effectiveness or viability**
- ▶ **Local Government recommendations begin on page 24 of the White Paper**
- ▶ **Military recommendations begin on page 26 of the White Paper**

Conclusion

In considering any statutory changes to mitigate encroachment, the state must strike a balance between protecting the military's ability to fully utilize Florida's unique training environment and the significant positive impact the military has on the state economy with the local governments' need to accommodate growth and the property rights of private landowners.