

A bill to be entitled

2 An act relating to the Florida State Guard;
amending
3 s. 251.001, F.S.; providing that the Florida State
4 Guard is composed of volunteers instead of
members;
5 defining terms; requiring the Governor to
commission
6 all officers of the Florida State Guard; requiring
7 applicants to submit a full set of fingerprints to
a
8 specified entity; requiring such entity to forward
9 such fingerprints to the Department of Law
Enforcement
10 for a specified purpose; requiring the department
to
11 forward such fingerprints to the Federal Bureau of
12 Investigation for a specified purpose; requiring
the
13 Florida State Guard to pay the fees for processing
and
14 retaining such fingerprints; requiring that any
arrest
15 record identified be reported to the Division of
the
16 State Guard; deleting a provision requiring that
17 certain applicants be subject to certain
standards;
18 deleting a requirement that all training programs
for
19 the Florida State Guard be equivalent to a certain
20 training; authorizing the director of the Florida
21 State Guard to order volunteers to duty for
specified
22 purposes in certain circumstances; revising the
23 conditions during which the Governor may activate
the
24 Florida State Guard; authorizing, rather than
25 requiring, the division to reimburse volunteers
for
26 certain expenses; revising the protections that
apply
27 to volunteers; providing that, upon the request of
a
28 Florida State Guard volunteer, the Department of
Legal
29 Affairs may defend the volunteer in any action or

30 proceeding for any act that occurred during the
31 volunteer's scope of duty; providing construction;
32 authorizing the ordering of such defendant to full
33 active duty with full active duty compensation for
a
34 specified duration; providing that, if a plaintiff
35 dismisses the suit or if a verdict or judgment
finds
36 in the defendant's favor, the court must award
37 attorney fees and costs to such defendant; making
38 technical changes; providing an effective date.
39
40 Be It Enacted by the Legislature of the State of Florida:
41
42 Section 1. Subsections (2) and (4) through (10) of
section
43 251.001, Florida Statutes, are amended to read:
44 251.001 Florida State Guard Act.—
45 (2) CREATION AND AUTHORIZATION.—The Florida State
Guard is
46 created to protect and defend the people of Florida from
all
47 threats to public safety and to augment all existing
state and
48 local agencies. The Florida State Guard is created as
authorized
49 under federal law for use ~~exclusively~~ within this ~~the~~
state,
50 activated only by the Governor, and is at all times under
the
51 final command and control of the Governor as commander in
chief
52 of all military and guard forces of the state. The
Florida State
53 Guard may ~~shall~~ be used ~~exclusively~~ within the state, or
to
54 provide support to other states, only for the purposes
stated in
55 this section and may not be called, ordered, or drafted
into the
56 Armed Forces of the United States. The authorized maximum
number
57 of volunteer personnel that may be commissioned,
enrolled, or
58 employed as volunteers ~~members~~ of the Florida State Guard
is
59 1,500.

60 (4) DEFINITIONS.—As used in this section:
61 (a) The terms "active duty," "armed forces," and
"National
62 Guard" have the same meanings as in s. 250.01.
63 (b) The term "department" means the Department of
Military
64 Affairs.
65 (c) The term "director" means the director of the
Division
66 of the State Guard.
67 (d) The term "division" means the Division of the
State
68 Guard within the Department of Military Affairs.
69 (e) The term "enlisted volunteer" means a
volunteer who has
70 been approved by the director to serve in the Florida
State
71 Guard.
72 (f) The term "officer" means an enlisted volunteer
who, due
73 to special trust and confidence, is commissioned by the
Governor
74 as an officer of the Florida State Guard.
75 (g) The term "volunteer" means an officer or
enlisted
76 volunteer.
77 (5) PERSONNEL.—
78 (a) Subject to approval by the Governor, the
director shall
79 determine the number of volunteers ~~volunteer personnel~~
necessary
80 to meet the staffing and operational requirements of the
Florida
81 State Guard, and determine the volunteer structure and
number of
82 volunteers ~~volunteer personnel~~ within each component unit
of
83 such structure.
84 (b) The Governor shall commission all officers
~~volunteer~~
85 ~~personnel~~ of the Florida State Guard.
86 (c) Each applicant for the Florida State Guard
shall meet
87 the following qualifications:
88 1. The applicant must be a citizen of the United
States and

89 a resident of ~~this~~ ~~the~~ state.

90 2. The applicant may not have a felony conviction.

An

91 applicant must submit a full set of fingerprints to the
92 division, vendor, entity, or agency authorized under s.
93 943.053(13). The division, vendor, entity, or agency

shall

94 forward the fingerprints to the Department of Law

Enforcement

95 for state processing, and the Department of Law

Enforcement

96 shall forward the fingerprints to the Federal Bureau of
97 Investigation for a national criminal history check. The

Florida

98 State Guard shall pay the fees for state and federal

fingerprint

99 processing and retention. The state cost for fingerprint
100 processing is as provided in s. 943.053(3)(e), including
101 enrollment in the Federal Bureau of Investigation's

national

102 retained fingerprint arrest notification program. Any

arrest

103 record identified must be reported to the division ~~Each~~

104 ~~applicant shall submit a complete set of fingerprints and~~

~~all~~

105 ~~information required by state and federal law to process~~

106 ~~fingerprints for purposes of conducting a criminal~~

~~background~~

107 ~~check.~~

108 3. The applicant may not be an active duty
servicemember, a

109 member of the armed forces reserves, or a member of the
Florida

110 National Guard.

111 4. If the applicant is a former member of the
armed forces

112 or of any military or naval organization of this state or

113 another state, the applicant must have been separated
under

114 terms no less than a general discharge under honorable

115 conditions.

116 (d) The director shall establish minimum standards
for the

117 age, physical and health condition, and physical fitness
of

118 applicants based upon the component unit of the Florida

State

119 Guard structure in which the applicant is being
considered for

120 placement. ~~However, an applicant being considered for
placement~~

121 ~~in a component unit that serves in an active duty
capacity~~

122 ~~within the Florida State Guard must be subject to
standards that~~

123 ~~are no less than the standards required for recruitment,~~

124 ~~enrollment, and retention in the Florida National Guard.~~

125 (e) The director shall develop and implement a
code of

126 regulations for the administration and discipline of
volunteers

127 ~~members~~ of the Florida State Guard which provides that
~~shall~~

128 ~~provide~~ no less protection and imposes ~~impose~~ no more
severe

129 sanctions than as provided in s. 250.35, except that the

130 director does ~~shall~~ not have authority to impose any term
of

131 incarceration.

132 (6) SPECIALIZED UNIT.—The director shall organize
a

133 specialized unit within the Florida State Guard. All
volunteers

134 ~~members~~ of the specialized unit are vested with the
authority to

135 bear arms, detect, and apprehend while activated. In
addition to

136 the requirements set forth in paragraph (5)(c), only
those

137 volunteers ~~members~~ of the specialized unit who meet the

138 requirements in s. 943.13 and are certified as law
enforcement

139 officers as defined in s. 943.10(1) are authorized to
have the

140 same law enforcement authority as the law enforcement
agency in

141 conjunction with which they are working when activated.

142 (7) TRAINING AND EQUIPMENT.—The director shall
develop and

143 implement a program for training for volunteers ~~members~~
of the

144 Florida State Guard.

145 (a) ~~All training programs for the Florida State~~
146 ~~Guard shall~~
147 ~~be at least equivalent to the training requirements for~~
148 ~~members~~
149 ~~of the Florida National Guard under applicable federal~~
150 ~~law at~~
151 ~~the time the training is conducted.~~ As required by the
152 director,

153 all volunteers ~~members~~ of the Florida State Guard must
154 ~~shall~~
155 complete initial training within 180 days after their
156 appointment or enrollment and periodic ongoing training.

157 (b) The director may provide for staff to prepare
158 and
159 conduct training required in this section. The staff may
160 include
161 members of the Florida National Guard whose duty
162 assignments may
163 include conducting training under this section but who
164 may not
165 be considered volunteers ~~members~~ of the Florida State
166 Guard.

167 (c) The division shall provide all equipment
168 necessary for
169 the training and service of volunteers ~~members~~ of the
170 Florida
171 State Guard and shall arrange and contract for the use of
172 sufficient and adequate facilities for training,
173 organizing, and
174 all other purposes of the Florida State Guard. Section
175 250.44
176 applies to the allocation, delegation, use of, and
177 accounting
178 for all equipment furnished under this section.

179 (d) The director may order volunteers of the
180 Florida State
181 Guard to duty for purposes of training and administrative
182 duty,
183 subject to annual appropriations when not activated by
184 order of
185 the Governor.

186 (8) ACTIVATION AND DEACTIVATION OF THE FLORIDA
187 STATE
188 GUARD.—

189 (a) The Florida State Guard, by component units or
190 in

171 total, may be activated by order of the Governor:
172 1. During a declared state of emergency, period of
173 civil unrest, or any other time deemed necessary and
174 appropriate,
175 which order must be by written communication to the
176 Director of
177 the Florida State Guard ~~any period when any part of the~~
178 ~~Florida~~
179 ~~National Guard is in active federal service and the~~
180 ~~Governor has~~
181 ~~declared a state of emergency;~~
182 2. To preserve the public peace, execute the laws
183 of the
184 state, enhance domestic security, respond to terrorist
185 threats
186 or attacks, protect and defend the people of Florida from
187 threats to public safety, respond to an emergency as
188 defined in
189 s. 252.34 or imminent danger thereof, or respond to any
190 need for
191 emergency aid to civil authorities as specified in s.
192 252.38;
193 3. To augment any existing state or local agency;
194 or
195 4. To provide support to other states under the
196 Emergency
197 Management Assistance Compact as provided for in part III
198 of
199 chapter 252.
200 (b) The Florida State Guard may only ~~shall~~ be
201 deactivated
202 by the expiration of the order of activation or by a
203 separate
204 order by the Governor deactivating the Florida State
205 Guard.
206 (9) REIMBURSEMENT AND COMPENSATION.—
207 (a) The division may ~~shall~~ reimburse volunteers
208 ~~members~~ of
209 the Florida State Guard for per diem and travel expenses
210 incurred to attend required training or in the course of
211 active
212 service as provided in s. 112.061.
213 (b) Volunteers ~~Members~~ of the Florida State Guard
214 may be
215 compensated for time spent training or in the course of

active

198 service at rates established by the director, subject to
199 appropriation.

200 (c) A volunteer ~~member~~ of the Florida State Guard
may not
201 make any purchase or enter into any contract or agreement
for
202 purchases or services as a charge against the state
without the
203 authority of the director.

204 (10) EMPLOYMENT PROTECTION, SUSPENSION OF
PROCEEDINGS,
205 LIABILITY, AND WORKERS' COMPENSATION.—

206 (a) The protections for members of the Florida
National
207 Guard provided in ss. 115.07, 250.48-250.483, and
250.5201

208 250.5205 apply to each volunteer ~~member~~ of the Florida
State
209 Guard engaged in required training or active service.

210 (b) Volunteers ~~Members~~ of the Florida State Guard
ordered
211 into active service or engaged in required training are
not
212 liable for any lawful act done in performance of their
duties
213 under this section while acting in good faith within the
scope
214 of those duties.

215 (c) In any action or proceeding of any nature,
civil or
216 criminal, commenced in any court by any person or by the
state
217 against any volunteer of the Florida State Guard for any
act
218 occurring in that volunteer's scope of duty, the
defendant in
219 such action or proceeding may, upon his or her request,
be
220 defended at the expense of the state by a qualified
attorney
221 designated by the Department of Legal Affairs. However,
this
222 section does not prohibit such defendant from employing
his or
223 her own private counsel at the defendant's own expense.

224 1. A defendant may be ordered to state active duty
225 with

226 full active duty compensation for the time his or her
227 presence

228 is required in defense of such actions or proceedings.

229 2. In any such action or proceeding, if the
230 plaintiff

231 dismisses his or her suit or a verdict or judgment in
232 favor of

233 the defendant is entered, the court must award costs and

234 reasonable attorney fees incurred by the state and the
235 defendant

236 in the defense of such action or proceeding.

237 (d) While activated or in training, volunteers
238 members of

239 the Florida State Guard are considered volunteers for the
240 state,

241 as defined in s. 440.02(18)(d)6., and are entitled to
242 workers'

243 compensation protections pursuant to chapter 440.

244 Section 2. This act shall take effect July 1,
245 2024.