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2023 Legislature

1  
 2 An act relating to the Florida State Guard; amending  
 3 s. 120.80, F.S.; providing that certain functions of  
 4 the Florida State Guard are not rules as defined by  
 5 ch. 120, F.S.; amending s. 250.44, F.S.; prohibiting  
 6 certain actions regarding clothing, arms, military  
 7 outfits, and property of the Florida State Guard;  
 8 requiring certain information to be reported to the  
 9 director of the Division of the State Guard within the  
 10 Department of Military Affairs; providing a penalty;  
 11 amending s. 251.001, F.S.; providing a short title;  
 12 providing the scope of chapter 251, F.S.; revising  
 13 provisions relating to the creation and authorization  
 14 of the Florida State Guard; providing the authorized  
 15 maximum number of volunteer personnel of the Florida  
 16 State Guard; creating the Division of the State Guard  
 17 within the Department of Military Affairs; providing  
 18 that the head of the division is a director appointed  
 19 by and serving at the pleasure of the Governor;  
 20 providing eligibility requirements for the director;  
 21 providing that the division is a separate budget  
 22 entity; requiring the department to provide  
 23 administrative support to the division; providing  
 24 division responsibilities; authorizing the director to  
 25 establish a services structure for certain purposes;

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26 | revising and providing definitions; removing  
27 | provisions establishing authority of the department  
28 | and the Adjutant General with respect to the Florida  
29 | State Guard; providing additional duties of the  
30 | division and director; revising qualifications for  
31 | applicants to the Florida State Guard; requiring the  
32 | director to organize and establish a specialized unit  
33 | within the Florida State Guard; providing criteria and  
34 | authority for members of the specialized unit;  
35 | revising the criteria for activation of the Florida  
36 | State Guard; requiring the division to reimburse  
37 | members for per diem and travel expenses; authorizing  
38 | other compensation subject to appropriation; requiring  
39 | the director to adopt rules; conforming provisions to  
40 | changes made by the act; repealing ss. 251.01, 251.02,  
41 | 251.03, 251.04, 251.05, 251.06, 251.07, 251.08,  
42 | 251.09, 251.10, 251.11, 251.12, 251.13, 251.14,  
43 | 251.15, 251.16, and 251.17, F.S., relating to the  
44 | Florida State Defense Force; amending s. 790.25, F.S.;  
45 | conforming provisions to changes made by the act;  
46 | providing an effective date.

47

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

49

50 | Section 1. Subsection (20) is added to section 120.80,

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51 Florida Statutes, to read:

52 120.80 Exceptions and special requirements; agencies.—

53 (20) FLORIDA STATE GUARD.—Notwithstanding s. 120.52(16),

54 the enlistment, organization, administration, equipment,

55 maintenance, training, and discipline of the Florida State Guard

56 are not rules as defined by this chapter.

57 Section 2. Subsection (3) of section 250.44, Florida

58 Statutes, is amended to read:

59 250.44 Military equipment regulations; penalties.—

60 (3) The clothing, arms, military outfits, and property

61 furnished by or through the state to any member of the militia

62 or the Florida State Guard, may not be sold, bartered, loaned,

63 exchanged, pledged, or given away. A person who is not a member

64 of the military forces of this state or the United States, or an

65 authorized agent of this state or the United States, who

66 possesses clothing, arms, military outfits, or property that is

67 unlawfully disposed of has no right, title, or interest therein,

68 and the clothing, arms, military outfits, or property shall be

69 seized and taken wherever found by any civil or military officer

70 of the state and delivered to any commanding officer or other

71 authorized officer, who must:

72 (a) If such clothing, arms, military outfits, or property

73 were issued by or are property of the militia, make an immediate

74 report to the Adjutant General.

75 (b) If such clothing, arms, military outfits, or property

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76 were issued by or are property of the Florida State Guard, make  
 77 an immediate report to the director of the Division of the State  
 78 Guard within the Department of Military Affairs.

79  
 80 The possession of any such clothing, arms, military outfits, or  
 81 property by any person not a member of the military forces of  
 82 this state, or any other state, or of the United States, is  
 83 presumptive evidence of such sale, barter, loan, exchange,  
 84 pledge, or gift and is punishable as provided in chapter 812.

85 Section 3. Section 251.001, Florida Statutes, is amended  
 86 to read:

87 251.001 Florida State Guard Act.—

88 (1) SHORT TITLE AND SCOPE.—This chapter may be cited as  
 89 the "Florida State Guard Act." This chapter shall be  
 90 supplemental to provisions relating to the organized militia in  
 91 chapter 250 other than the Florida National Guard.

92 (2)~~(1)~~ CREATION AND AUTHORIZATION.—The Florida State Guard  
 93 is created to protect and defend the people of Florida from all  
 94 threats to public safety and to augment all existing state and  
 95 local agencies. The Florida State Guard is created as authorized  
 96 under federal law for use exclusively within the state,  
 97 activated only by the Governor ~~under the specific limitations~~  
 98 ~~created by this section~~, and is at all times under the final  
 99 command and control of the Governor as commander in chief of all  
 100 military and guard forces of the state. The Florida State Guard

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101 ~~is created and authorized as a component of the organized guard~~  
102 ~~separate and apart from the Florida National Guard and shall be~~  
103 ~~used exclusively within the state, or to provide support to~~  
104 ~~other states,~~ for the purposes stated in this section and may  
105 not be called, ordered, or drafted into the armed forces of the  
106 United States. The authorized maximum number of volunteer  
107 personnel that may be commissioned, enrolled, or employed as  
108 members of the Florida State Guard is 1,500 ~~400~~.

109 (3) DIVISION OF THE STATE GUARD.—The Division of the State  
110 Guard is created within the Department of Military Affairs and  
111 shall be headed by a director who shall be appointed by and  
112 serve at the pleasure of the Governor, subject to confirmation  
113 by the Senate. The director must have served at least 5 years as  
114 a servicemember of the United States Armed Forces, United States  
115 Reserve Forces, or Florida National Guard. The division shall be  
116 a separate budget entity, and the director shall be its agency  
117 head for all purposes. The Department of Military Affairs shall  
118 provide administrative support and service to the division to  
119 the extent requested by the director. The division shall not be  
120 subject to control, supervision, or direction by the Department  
121 of Military Affairs in any manner, including, but not limited  
122 to, personnel, purchasing, transactions involving real or  
123 personal property, and budgetary matters. The division is  
124 responsible for the organization, recruitment, training,  
125 equipping, management, and functions of the Florida State Guard.

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126 The director may establish a command, operational, and  
 127 administrative services structure to assist, manage, and support  
 128 the Florida State Guard in operating the program and delivering  
 129 services.

130 (4)-(2) DEFINITIONS.—As used in this section:

131 (a) The terms "active duty," "armed forces," and "enlisted  
 132 personnel," "National Guard," and "rank" have the same meanings  
 133 as in s. 250.01.

134 (b) The term "department" means the Department of Military  
 135 Affairs.

136 (c) The term "director" means the director of the Division  
 137 of the State Guard.

138 (d) The term "division" means the Division of the State  
 139 Guard within the Department of Military Affairs.

140 ~~(e) The term "officer" means an officer commissioned by~~  
 141 ~~the Governor.~~

142 ~~(d) The term "organized guard" means an organized military~~  
 143 ~~force that is authorized by law.~~

144 ~~(e) The term "warrant officer" means a technical~~  
 145 ~~specialist commissioned as a warrant officer by the Governor.~~

146 ~~(3) ADJUTANT GENERAL.—The Adjutant General is the~~  
 147 ~~commanding general of the Florida State Guard subject at all~~  
 148 ~~times to the Governor as commander in chief. The Adjutant~~  
 149 ~~General is responsible for organizing, recruiting, training,~~  
 150 ~~equipping, managing, and disciplining the Florida State Guard,~~

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151 ~~including selecting units for activation by the Governor,~~  
 152 ~~selecting candidates for commissioning by the Governor, and~~  
 153 ~~approving applicants as enlisted personnel.~~

154 ~~(5)(4)~~ PERSONNEL.—

155 (a) Subject to approval by the Governor, the director  
 156 ~~Adjutant General~~ shall determine the number of volunteer  
 157 ~~officers, warrant officers, and enlisted~~ personnel necessary to  
 158 meet the staffing and operational requirements of the Florida  
 159 State Guard, and determine the volunteer structure ~~specific~~  
 160 ~~ranks~~ and number of volunteer personnel within each component  
 161 unit of such structure ~~rank~~.

162 (b) The Governor shall commission all volunteer personnel  
 163 ~~officers and warrant officers~~ of the Florida State Guard.

164 (c) Each applicant for the Florida State Guard shall meet  
 165 the following qualifications:

166 1. The applicant must ~~shall~~ be a citizen of the United  
 167 States and a resident of the state.

168 2. The applicant may not ~~cannot~~ have a felony conviction.  
 169 Each applicant shall submit a complete set of fingerprints and  
 170 all information required by state and federal law to process  
 171 fingerprints for purposes of conducting a criminal background  
 172 check.

173 3. The applicant may not be an active duty servicemember,  
 174 a member of the armed forces reserves, or a member of the  
 175 Florida National Guard.

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176 4. If the applicant is a former member of the armed forces  
 177 or of any military or naval organization of this state or  
 178 another state, the applicant must have been separated under  
 179 terms no less than a general discharge under honorable  
 180 conditions.

181 (d) The director ~~Adjutant General~~ shall establish minimum  
 182 standards for the age, physical and health condition, and  
 183 physical fitness of applicants based upon the component unit of  
 184 the Florida State Guard structure in which the applicant is  
 185 being considered for placement. However, an applicant being  
 186 considered for placement in a component unit that serves in an  
 187 active duty capacity within the Florida State Guard must be  
 188 subject to standards that ~~which~~ are no less than the standards  
 189 required for recruitment, enrollment, and retention in the  
 190 Florida National Guard.

191 (e) The director ~~Adjutant General~~ shall develop and  
 192 implement a code of regulations for the administration and  
 193 discipline of members of the Florida State Guard that shall  
 194 provide no less protection and impose no more severe sanctions  
 195 than as provided in s. 250.35, except that the director ~~Adjutant~~  
 196 ~~General~~ shall not have ~~no~~ authority to impose any term of  
 197 incarceration.

198 (6) SPECIALIZED UNIT.—The director shall organize a  
 199 specialized unit within the Florida State Guard. All members of  
 200 the specialized unit are vested with the authority to bear arms,



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201 detect, and apprehend while activated. In addition to the  
 202 requirements set forth in paragraph (5)(c), only those members  
 203 of the specialized unit who meet the requirements in s. 943.13  
 204 and are certified as law enforcement officers as defined in s.  
 205 943.10(1) are authorized to have the same law enforcement  
 206 authority as the law enforcement agency in conjunction with  
 207 which they are working when activated.

208 (7)-(5) TRAINING AND EQUIPMENT.—The director ~~Adjutant~~  
 209 ~~General~~ shall develop and implement a program for training for  
 210 members of the Florida State Guard.

211 (a) All training programs for the Florida State Guard  
 212 shall be at least equivalent to the training requirements for  
 213 members of the Florida National Guard under applicable federal  
 214 law at the time the training is conducted. As required by the  
 215 director ~~Adjutant General~~, all members of the Florida State  
 216 Guard shall complete initial training within 180 days after  
 217 their appointment or enrollment and periodic ongoing training.

218 (b) The director ~~Adjutant General~~ may provide for staff to  
 219 prepare and conduct training required in this section. The staff  
 220 may include members of the Florida National Guard whose duty  
 221 assignments may include conducting training under this section  
 222 but who may not be considered members of the Florida State  
 223 Guard.

224 (c) The division ~~Adjutant General~~ shall provide all  
 225 equipment necessary for the training and service of members of

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226 | the Florida State Guard and shall arrange and contract for the  
 227 | use of sufficient and adequate facilities for training,  
 228 | organizing, and all other purposes of the Florida State Guard.  
 229 | Section 250.44 applies ~~The provisions of s. 250.44 apply~~ to the  
 230 | allocation, delegation, use of, and accounting for all equipment  
 231 | furnished under this section.

232 | ~~(d) The Adjutant General may make available for training~~  
 233 | ~~and other purposes under this section the facilities controlled~~  
 234 | ~~and operated by the department.~~

235 | (8)-(6) ACTIVATION AND DEACTIVATION OF THE FLORIDA STATE  
 236 | GUARD.-

237 | (a) The Florida State Guard, by component units or in  
 238 | total, may be activated by order of the Governor:

239 | 1. During any period when any part of the Florida National  
 240 | Guard is in active federal service and the Governor has declared  
 241 | a state of emergency; ~~The Florida State Guard may be activated~~  
 242 | ~~as part of an emergency order issued by the Governor or in a~~  
 243 | ~~separate executive order issued during a declared state of~~  
 244 | ~~emergency.~~

245 | 2. ~~(b) The Florida State Guard may be activated only~~ To  
 246 | preserve the public peace, execute the laws of the state,  
 247 | enhance domestic security, respond to terrorist threats or  
 248 | attacks, protect and defend the people of Florida from threats  
 249 | to public safety, respond to an emergency as defined in s.  
 250 | 252.34 or imminent danger thereof, or respond to any need for

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251 emergency aid to civil authorities as specified in s. 252.38;

252 3. To augment any existing state or local agency; or

253 4. To provide support to other states under the Emergency

254 Management Assistance Compact as provided for in part III of

255 chapter 252.

256 (b)(e) The Florida State Guard shall be deactivated by the  
 257 expiration of the order of activation or by a separate order by  
 258 the Governor deactivating the Florida State Guard.

259 (9)(7) REIMBURSEMENT AND COMPENSATION.—

260 (a) The division shall ~~department may~~ reimburse members of  
 261 the Florida State Guard for per diem and travel expenses  
 262 incurred to attend required training or in the course of active  
 263 service as provided in s. 112.061.

264 (b) Members of the Florida State Guard may be compensated  
 265 for time spent training or in the course of active service at  
 266 rates established by the director, subject to appropriation  
 267 ~~Adjutant General.~~

268 (c) A ~~No~~ member of the Florida State Guard may not make  
 269 any purchase or enter into any contract or agreement for  
 270 purchases or services as a charge against the state without the  
 271 authority of the director ~~Adjutant General.~~

272 (10)(8) EMPLOYMENT PROTECTION, SUSPENSION OF PROCEEDINGS,  
 273 LIABILITY, AND WORKERS' COMPENSATION.—

274 (a) The protections for members of the Florida National  
 275 Guard provided in ss. 250.48-250.483 and 250.5201-250.5205 ~~shall~~

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276 apply to each member of the Florida State Guard engaged in  
 277 required training or active service.

278 (b) Members of the Florida State Guard ordered into active  
 279 service or engaged in required training are not liable for any  
 280 lawful act done in performance of their duties under this  
 281 section while acting in good faith within the scope of those  
 282 duties.

283 (c) While activated or in training, members of the Florida  
 284 State Guard are considered volunteers for the state, as defined  
 285 in s. 440.02(15)(d)6., and are entitled to workers' compensation  
 286 protections pursuant to chapter 440.

287 ~~(11)-(9)~~ RULEMAKING AUTHORITY.—The director ~~Adjutant~~  
 288 ~~General~~, as head of the division ~~department~~, shall adopt rules  
 289 to implement ~~the provisions of~~ this section.

290 ~~(10)~~ APPROPRIATION.—~~This section is subject to an~~  
 291 ~~appropriation in the General Appropriations Act.~~

292 ~~(11)~~ EXPIRATION.—~~This section expires July 1, 2023.~~

293 Section 4. Sections 251.01, 251.02, 251.03, 251.04,  
 294 251.05, 251.06, 251.07, 251.08, 251.09, 251.10, 251.11, 251.12,  
 295 251.13, 251.14, 251.15, 251.16, and 251.17, Florida Statutes,  
 296 are repealed.

297 Section 5. Paragraph (a) of subsection (3) of section  
 298 790.25, Florida Statutes, is amended to read:

299 790.25 Lawful ownership, possession, and use of firearms  
 300 and other weapons.—

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301           (3) LAWFUL USES.—The provisions of ss. 790.053 and 790.06  
302 do not apply in the following instances, and, despite such  
303 sections, it is lawful for the following persons to own,  
304 possess, and lawfully use firearms and other weapons,  
305 ammunition, and supplies for lawful purposes:

306           (a) Members of the Militia, National Guard, Florida State  
307 Guard ~~Defense Force~~, Army, Navy, Air Force, Marine Corps, Space  
308 Force, Coast Guard, organized reserves, and other armed forces  
309 of the state and of the United States, when on duty, when  
310 training or preparing themselves for military duty, or while  
311 subject to recall or mobilization;

312           Section 6. This act shall take effect July 1, 2023.