



Community & Military Affairs Subcommittee

**Wednesday, January 12, 2011
2:00 PM - 5:00 PM
Webster Hall (212 Knott)**

**Dean Cannon
Speaker**

**Ritch Workman
Chair**



House of Representatives

Community & Military Affairs Subcommittee

A G E N D A

January 12, 2011

2:00 PM – 5:00 PM

Webster Hall (212 Knott)

- I. Call to Order & Opening Remarks by the Chair**
- II. Member Introductions & Comments**
- III. Staff Introductions**
- IV. Presentations:**
 - Florida National Guard Update**
 - Implementation of Homestead Ad Valorem Tax Exemption for Deployed Military Personnel (2010 Constitutional Amendment 2)**
 - Status of SB 360 (2009)**
 - Local Government in Florida**
- V. Closing Remarks by the Chairman**
- VI. Adjournment**

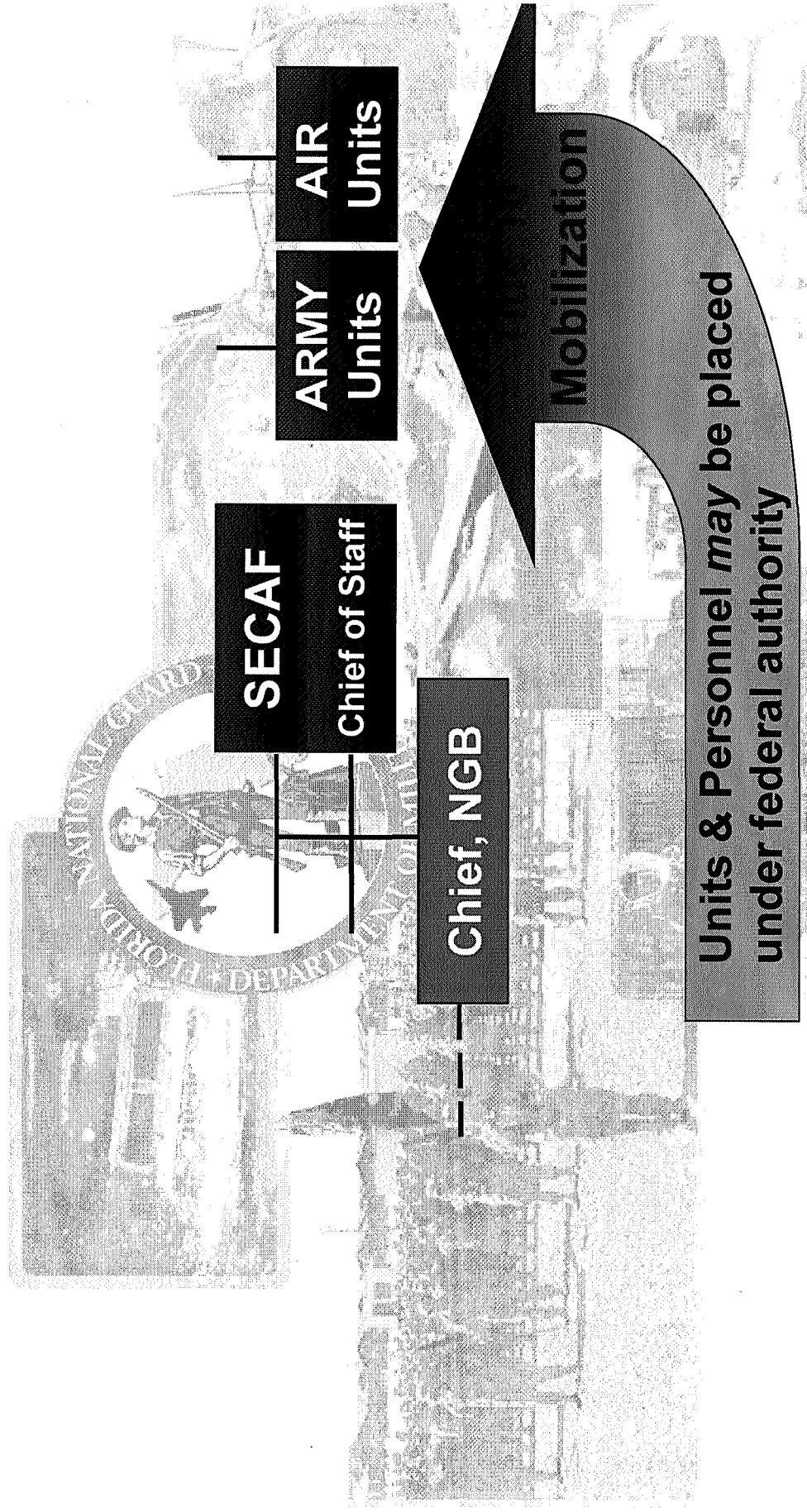
**Florida National
Guard Update**

A black and white, halftone-style photograph of the Statue of Liberty. The statue is the central focus, shown from the waist up, holding the torch in her right hand and the tablet in her left. The background shows the intricate details of the statue's crown and the surrounding structure of the pedestal.

Command Briefing

January 12, 2011

Maj Gen Emmett R. Hishaw, Jr.
The Adjutant General of Florida



SECAF

Chief of Staff

ARMY

Units

AIR

Units

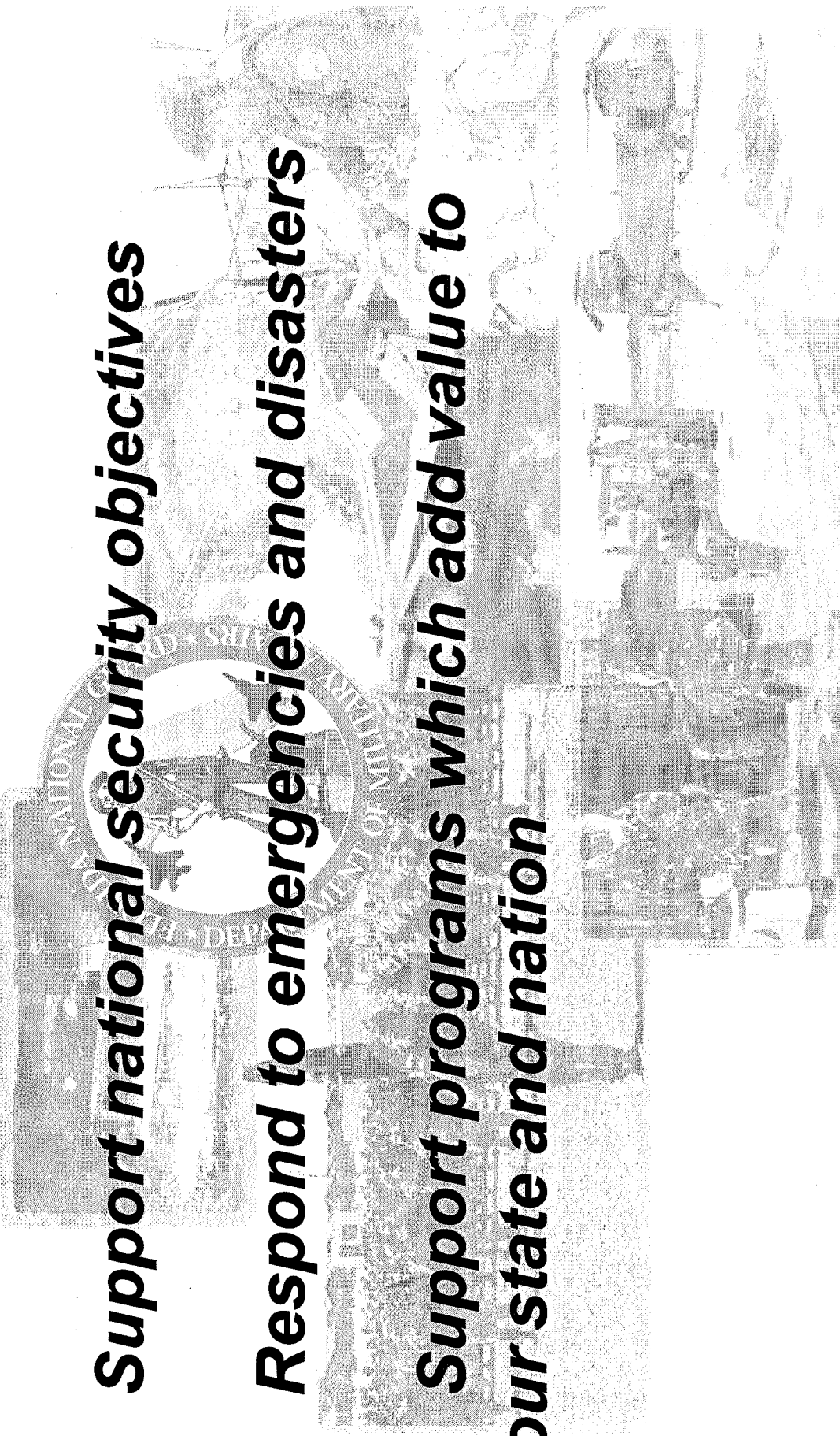
Chief, NGB

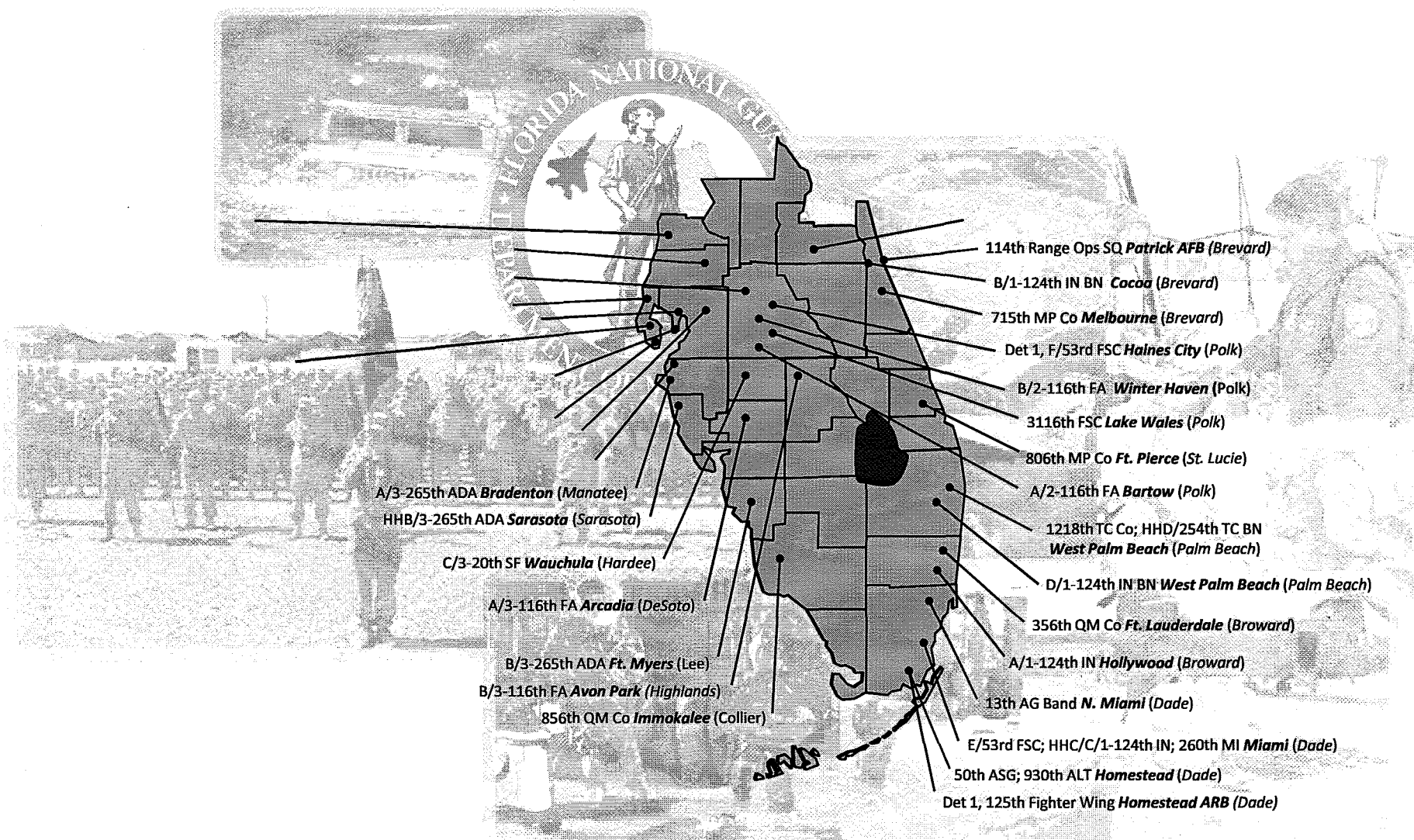
Mobilization

Units & Personnel may be placed under federal authority

Provide highly trained units and personnel to:

- Support national security objectives***
- Respond to emergencies and disasters***
- Support programs which add value to our state and nation***





A/3-265th ADA Bradenton (Manatee)
HHB/3-265th ADA Sarasota (Sarasota)

C/3-20th SF Wauchula (Hardee)

A/3-116th FA Arcadia (DeSoto)

B/3-265th ADA Ft. Myers (Lee)

B/3-116th FA Avon Park (Highlands)

856th QM Co Immokalee (Collier)

114th Range Ops SQ Patrick AFB (Brevard)

B/1-124th IN BN Cocoa (Brevard)

715th MP Co Melbourne (Brevard)

Det 1, F/53rd FSC Haines City (Polk)

B/2-116th FA Winter Haven (Polk)

3116th FSC Lake Wales (Polk)

806th MP Co Ft. Pierce (St. Lucie)

A/2-116th FA Bartow (Polk)

1218th TC Co; HHD/254th TC BN
West Palm Beach (Palm Beach)

D/1-124th IN BN West Palm Beach (Palm Beach)

356th QM Co Ft. Lauderdale (Broward)

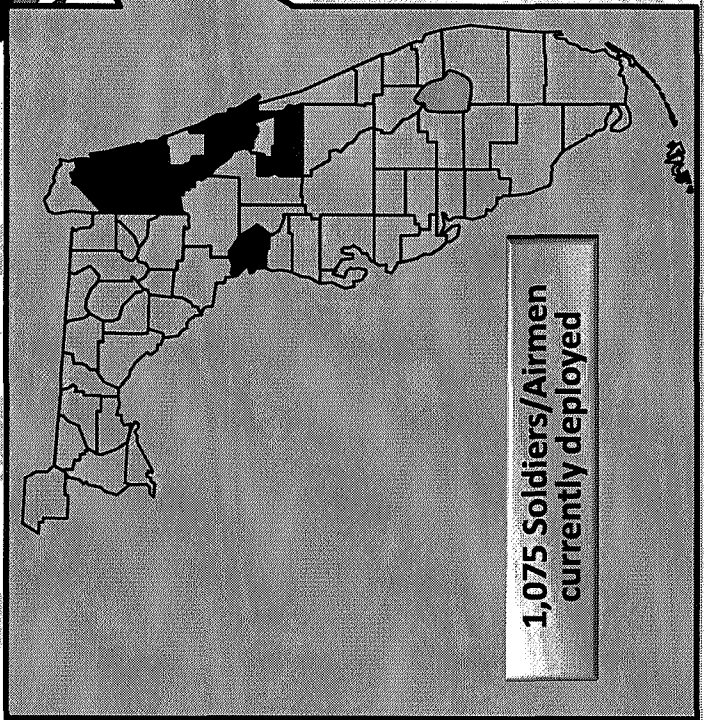
A/1-124th IN Hollywood (Broward)

13th AG Band N. Miami (Dade)

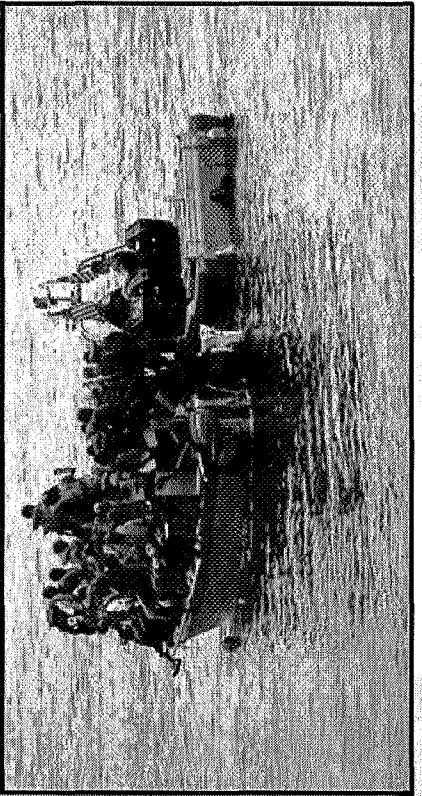
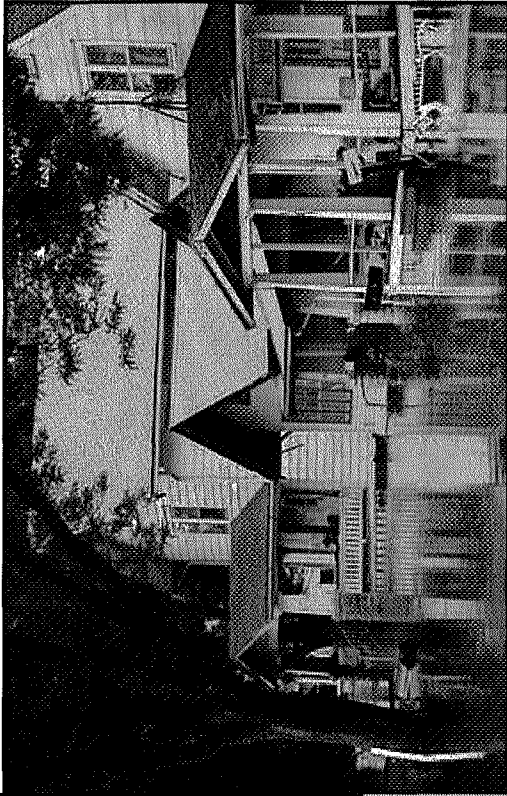
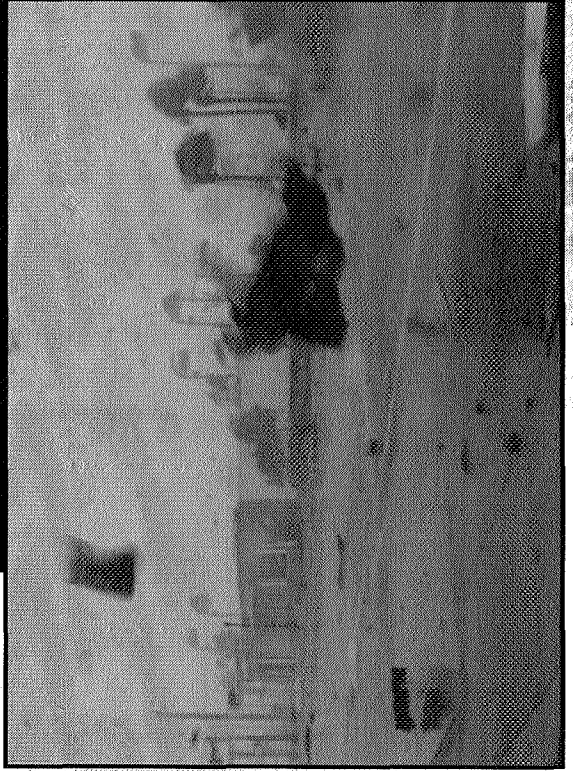
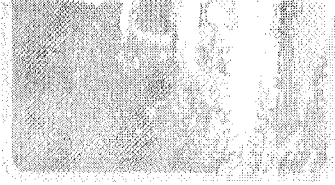
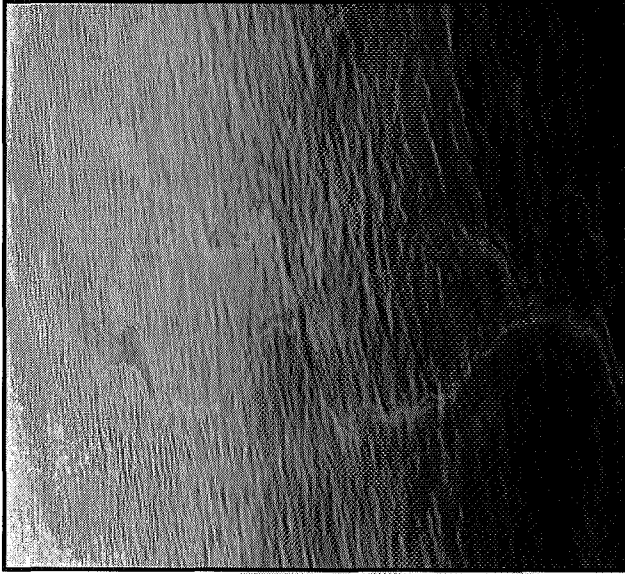
E/53rd FSC; HHC/C/1-124th IN; 260th MI Miami (Dade)

50th ASG; 930th ALT Homestead (Dade)

Det 1, 125th Fighter Wing Homestead ARB (Dade)



**19 Guard Members Died While On Federal Mobilization
20 Purple Heart Recipients**



1992 to 2010 - 72 Activations - 688,628 Total Work-Days

- Established per *Florida Statute*, Chapter 250
- 352 Full-Time State Employees
 - (207 are 100% federally reimbursed)
- 2010-2011 State Budget - ~\$16M
- GR Budget Priorities
 - Florida Armory Revitalization Program \$15,000,000
 - Armory Support; Increased Energy Costs \$370,000
 - IT Infrastructure Replacement \$293,500

Federal Budget

- In 2009 over \$527M direct federal funds received
- Economic Impact over \$1.25B in Florida

\$33 Federal to \$1 State

Units Mobilizing

Unit Name # Personnel

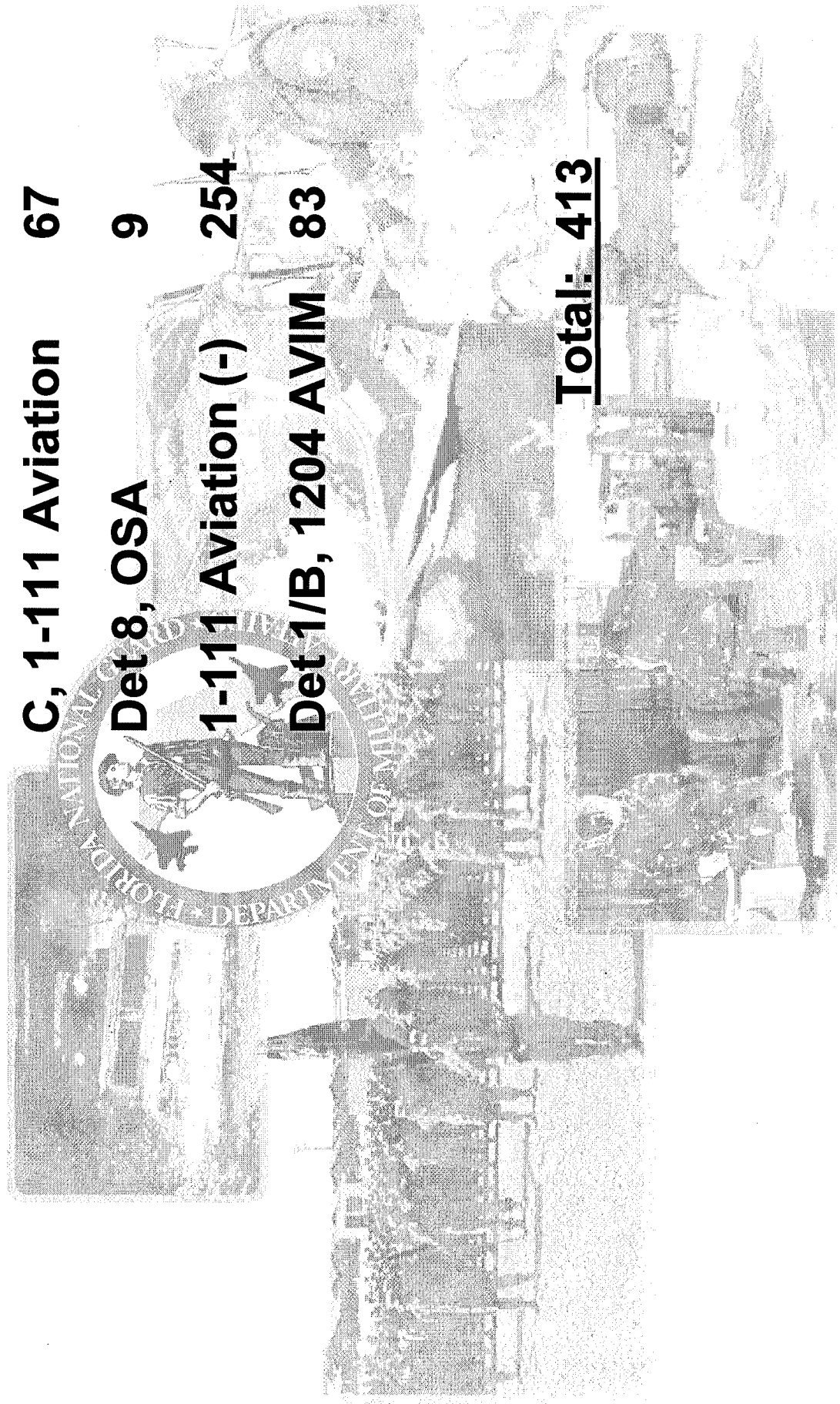
C, 1-111 Aviation 67

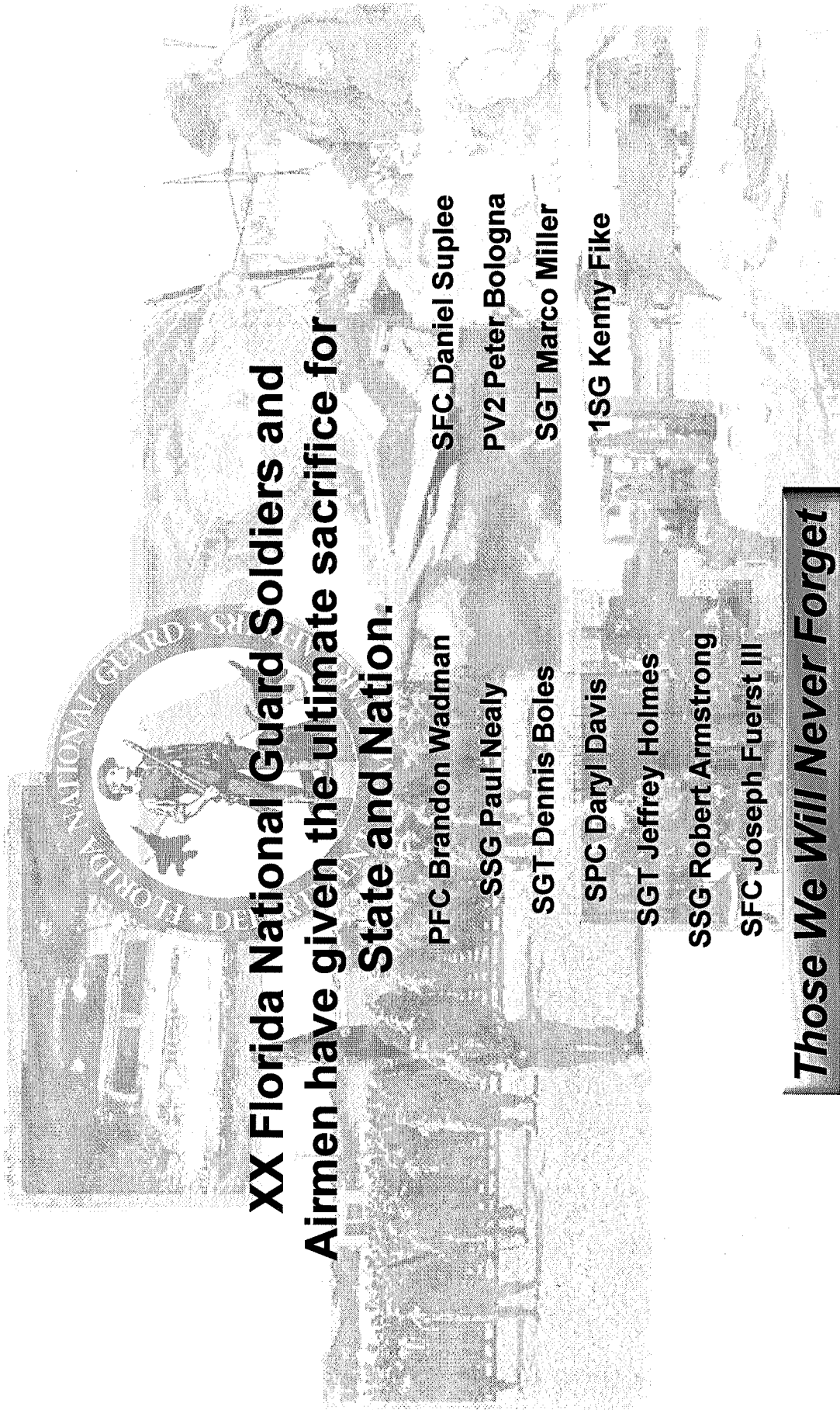
Det 8, OSA 9

1-111 Aviation (-) 254

Det 1/B, 1204 AVIM 83

Total: 413





**XX Florida National Guard Soldiers and
Airmen have given the ultimate sacrifice for
State and Nation.**

PFC Brandon Wadman

SSG Paul Nealy

SGT Dennis Boles

SPC Daryl Davis

SGT Jeffrey Holmes

SSG Robert Armstrong

SFC Joseph Fuerst III

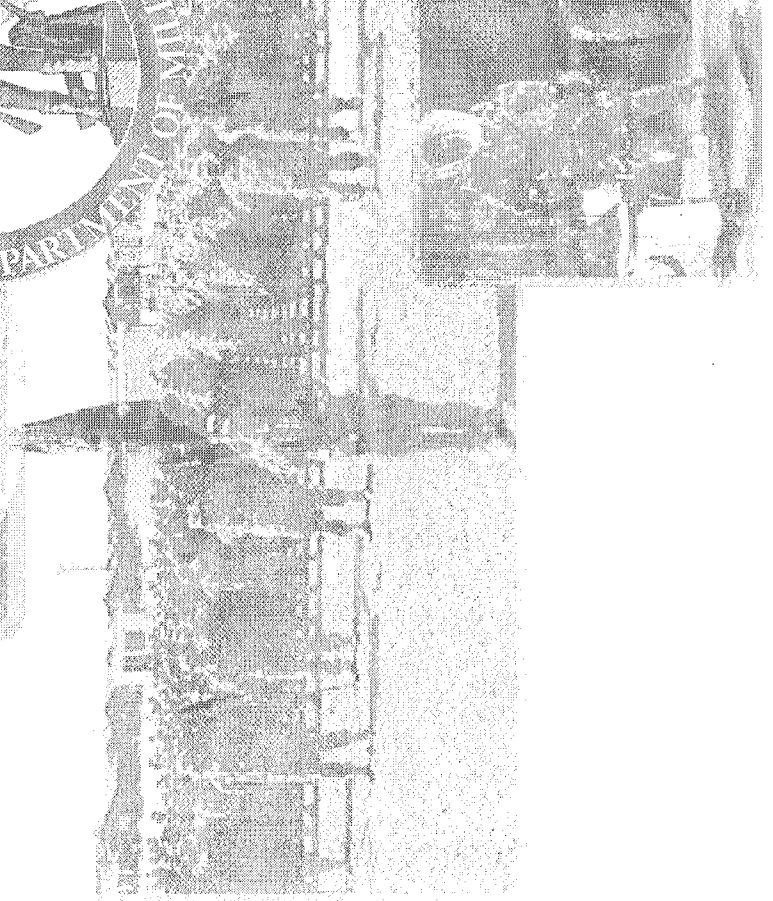
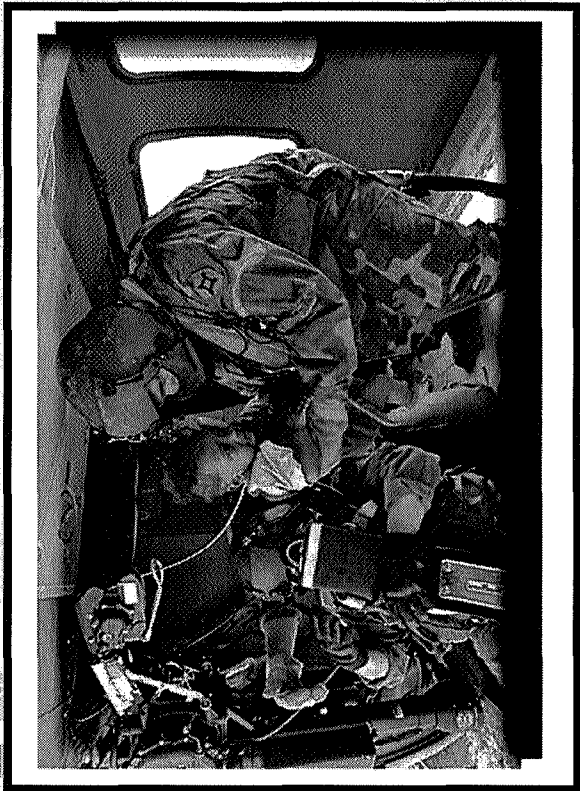
SFC Daniel Suplee

PV2 Peter Bologna

SGT Marco Miller

1SG Kenny Fike

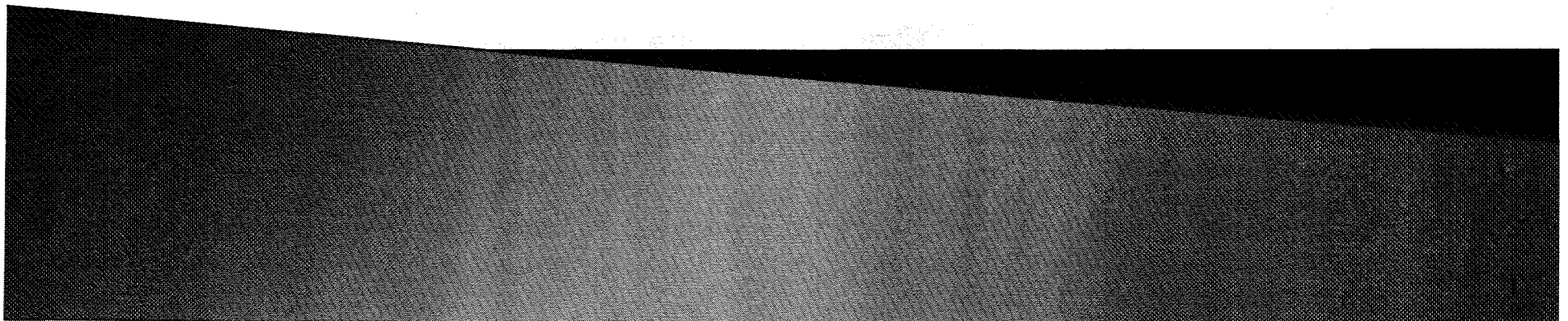
Those We Will Never Forget



**Implementation
of Military
Exemption**

**Implementation of the Homestead
Ad Valorem Tax Exemption for
Deployed Military Personnel
(2010 Constitutional Amendment 2)**

House Community & Military Affairs Subcommittee
January 12, 2011



Background

- ▶ The 2009 Florida Legislature passed CS/HJR 833 (sponsored by Representative Horner)
- ▶ The joint resolution called for an amendment to Section 3 of Article VII of the Florida Constitution that would allow a homestead ad valorem tax exemption for homesteaded property of deployed military personnel
- ▶ The amendment passed on November 2, 2010, with the approval of 77.82% of the voters

“By general law and subject to the conditions specified therein,
each person who receives a homestead exemption as provided in section 6 of this article; who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard;
and who was deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii
in support of military operations designated by the legislature
shall receive an additional exemption equal to a percentage of the taxable value of his or her homestead property.
The applicable percentage shall be calculated as the number of days during the preceding calendar year the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature divided by the number of days in that year.”

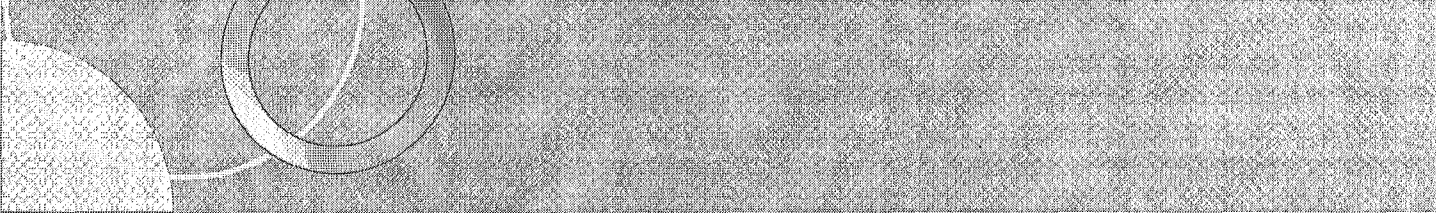
Effective January 1, 2011

Considerations for Implementing Legislation

- ▶ Identification of:
 - Military operations
 - Support of such operations
- ▶ Determine what levies the amendment affects
- ▶ Administrative details
 - Needed documentation
 - Timing for application, particularly in first year
 - Appeals to Value Adjustment Board
 - When formula is applied
 - Rulemaking authority and timing



Status of SB 360 (2009)
The Community Renewal Act
2009-96, Laws of Florida



Purpose of Presentation

- History
- Provisions of SB 360
- Status of Lawsuit
- Options



History

May 2009	The Legislature passed SB 360, cited as the “Community Renewal Act”
June 2009	The Governor signed the bill
July 2009	Local governments filed a lawsuit claiming SB 360 was an unfunded mandate and violated the single subject requirement
April 2010	Due to the pending lawsuit, the Legislature passed SB 1752 clarifying portions of SB 360
August 2010	The Circuit Court in Leon County found that SB 360 constituted an unfunded mandate and that the single subject claim was moot
September 2010	House and Senate appealed decision to 1st DCA
Current Status	SB 360 is still law. The appeal stayed the trial judge’s order and SB 360 remains in effect as litigation continues



Florida's Growth Management System

- Each county and municipality must adopt a comprehensive plan that applies to all lands within its jurisdiction and addresses:
 - ✓ Capital Improvements (and 5-year capital improvement schedule)
 - Future Land Use (and future land use map)
 - ✓ Transportation
 - General Sanitary Sewer, Solid Waste, Drainage, Potable Water, and Natural Groundwater Aquifer Recharge
 - Conservation
 - Recreation and Open Space
 - ✓ Housing
 - Coastal Management
 - Intergovernmental Coordination
 - ✓ Public School Facilities



Concurrency

- Public facilities and services shall be available concurrent with the impacts of such development
- Facilities and services with concurrency requirements:
 - Sanitary sewer
 - Solid waste
 - Drainage
 - Potable water
 - Parks and recreation
 - ✓ Schools
 - ✓ Transportation



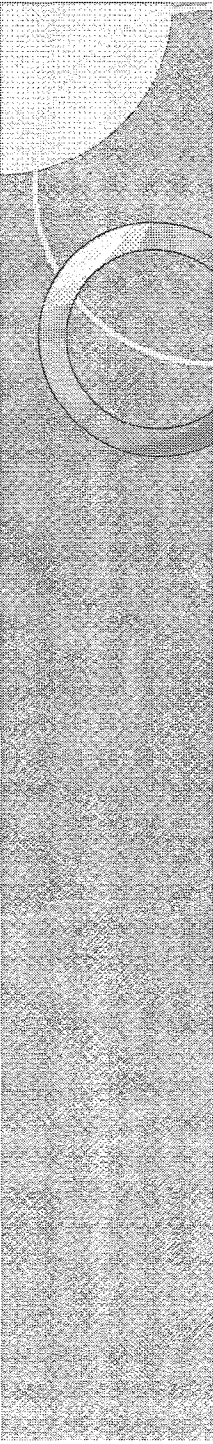
Transportation Concurrency Options

- Long-term Concurrency Management Plan
- Proportionate Share and Proportionate Fair Share
- ✓ Transportation Concurrency Exception Areas
 - Transportation Concurrency Management Areas
 - Multimodal District
 - Backlog Authority

° **SENATE BILL 360**

The Community Renewal Act of 2009

**Designed to remove stumbling blocks
to economic recovery**



Stumbling Blocks Removed: Urban Area Focus

- In certain urban areas:
 - Removed the state requirement for transportation concurrency
 - Continued the transition away from the lengthy approval process of the development of regional impact program for large projects by eliminating this requirement in certain urban areas



Stumbling Blocks Removed

- School concurrency mitigation options clarified to ensure locals allow an array of mitigation options
- Extended permits so that activity could resume without delay for those that have already made investments but had to delay activity due to the economic downturn
- Burdens placed on the private sector by local government regulations, such as requiring security cameras and delays in impact fee reductions, were eliminated
- Removed the unintended burden placed on the private sector from Legislative penalties relating to deadlines that were not being met by local governments



Housing Concerns

- Changes made to reflect current economic conditions to address:
 - Use of funds for rehab of existing housing stock
 - Foreclosure response
- Tax relief for affordable housing properties
- Addressing needs of special populations



Relief to Local Governments

- Local governments were provided some relief in meeting financial feasibility deadlines
- Greater flexibility provided in determining needed capital improvement
- Local governments' ability to manage and fund growth related impacts is protected through local home rule powers
- Certain small local governments are exempted from the requirement to amend their plans to address school concurrency



Details: Dense Urban Land Areas

- Defined dense urban land areas (DULAs) based on population density (245 local governments currently meet the definition)
- Designated these areas as transportation concurrency exception areas (TCEAs)
- Required adoption of “land use and transportation strategies to support and fund mobility within the exception areas” within 2 years of designation
- Eliminated the development of regional impact requirements within these areas



Details: Capital Improvement Requirements

- Local governments must annually adopt a financially feasible Capital Improvement schedule in order to maintain a 5-year schedule of needed improvements
- Penalties if not updated:
 - No future land use map amendments
 - Loss of state funds from grants and revenue sharing
- SB 360 Changes
 - Prior to SB 360 the deadline was December 1, 2008
 - SB 360 extended the date to December 1, 2011
 - Financial feasibility in DULAs no longer tied to stringent levels of service for transportation facilities



Details: School Concurrency

- Penalties
 - Removed the prohibition on plan amendment
 - Provided for financial sanctions for failure to comply
- Expanded the small county waiver
- Calculations of capacity to include relocatables
- Charter schools count as mitigation



Details: Housing Issues

- Expanded existing housing programs to allow for:
 - Moderate rehabilitation and the preservation of existing affordable housing units
 - Manufactured housing installed in accordance with the installation standards for mobile and manufactured homes
 - Allowed local governments to provide a one-time relocation grant of no more than \$5,000 to eligible persons who are subject to eviction from rental property due to the foreclosure of the rental property
- Expanded the eligible uses of homeless housing assistance grants to include the purchase of existing properties
- Allowed the potential to purchase properties subject to a SHIP lien and on which foreclosure proceedings have been initiated



Details: Housing Issues

- Reinstated and retroactively applied income-restriction exemptions for Monroe County so that housing awards may be made to Monroe County residents at or below 120 percent of the area median income
- Addressed needs of young adults who leave the child welfare system



Details: Housing Issues – Tax Related

- Reduced property taxes for certain affordable housing properties
 - Community land trusts
 - Properties where “affirmative” steps have been taken to prepare the property for affordable housing for eligible residents
 - Florida-based limited partnership
- Expanded the uses for which the local government infrastructure surtax may be used for affordable housing.



Details: Other Issues

- Provided for concurrent zoning and comprehensive plan changes
- Allowed use of the alternative state review process to designate urban service areas
- Required dispute resolution process and mandatory mediation
- Prohibited local governments from requiring businesses expend funds for security cameras
- Removed the 90-day waiting period to reduce an impact fee
- Called for a mobility fee study by DCA and DOT (now completed)
- Extended certain permits for a period of 2-years



Legislative Action 2010

- SB 1752 passed during the 2010 Session and addressed portions of SB 360 due to the pending lawsuit
 - Protects actions taken in good faith while SB 360 is law, in case it is later overturned
 - Provides bridge language for:
 - Permit extensions
 - DRI exemptions
 - Comprehensive plan amendments relating to TCEAs



SB 360 Litigation

Suit challenging SB 360 was filed on July 8, 2009 in circuit court in Leon County, Florida.



The Complaint: Parties & Claims

- **Plaintiffs: Local Governments**
- **Defendants: Governor, Secretary of State and Presiding Officers of the Legislature.**
- **Additional Local Governments have intervened.**
- **Count I asserts a single subject challenge.**
- **Count II asserts an unfunded mandate challenge.**



Single Subject Claim

- Article III, § 6, Fla. Const.: “Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.”
- The local governments argue that the bill contemplates three subjects:
 - Growth management
 - Security cameras
 - Affordable housing



Unfunded Mandate Claim

- Article VII, § 18, Fla. Const: No county or city shall be bound by a general law requiring the expenditure of funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and ...
 - The legislature appropriates funds or provides a funding source not available to the local government on February, 1, 1989;
 - The law requiring the expenditure is approved by a 2/3 vote of the membership of each house;
 - The expenditure is required to comply with a law that applies to all persons similarly situated, including state and local governments; or
 - the law is required to comply with a federal requirement that specifically contemplates actions by counties and cities for compliance.
- An exception is provided for laws with an insignificant fiscal impact.



Unfunded Mandate Claim

Local governments argued the following provisions of SB 360 constituted unfunded mandates:

- Requirement for TCEAs to adopt comprehensive plan amendments and transportation strategies to support and fund mobility;
- Ambiguous provisions relating to transportation concurrency and extensions of building and local development permits;
- Requirement that local governments use a formal process and mediation to resolve intergovernmental disputes.
- The elimination of the DRI process;
- Requirement that local governments provide 90-day notice before an increase of impact fees; and
- Prohibition on local governments adopting ordinances requiring local business to have security cameras.



The Defenses

- Defendants moved to dismiss on the grounds that none of the named defendants were the responsible agency for enforcement of the law and were immune from suit. The court denied this motion.
- Defendants also denied that the law violated the single subject and unfunded mandate provisions of the Florida Constitution.
- Following the 2010 regular session, Defendants filed a suggestion of mootness based upon passage of the re-enacting statute.



The Court's Rulings

- In its Final Summary Judgment, the court held:
 - the passage of the reenacting statute mooted the issue on single subject.
 - there were disputed issues of material fact as to most of Plaintiff's claims that precluded summary judgment on those issues.
 - There were no undisputed facts pertaining the requirement that local governments, through TCEAs, make comprehensive plan amendments and transportation strategies were unfunded mandates that would have an impact of \$3,690,000 (246 local governments x \$15,000), and that such costs were not insignificant under the exceptions.



The Court's Rulings

- The court adopted the legislature's threshold for "insignificant fiscal impact" as pertaining to the mandates analysis, which is defined as 10 cents per resident (\$1.86 million), but did not distinguish between a single year or multi-year impact in its ruling.
- The court declared SB 360 to be an unconstitutional unfunded mandate in its entirety and directed the Secretary of State to expunge the law from the official records of the State.
- Defendants moved for rehearing to urge the court to consider severing the offending provision; however, the court denied the motion for rehearing.

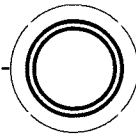


The Appeal

- **Defendants have appealed 3 components of the court's ruling:**
 - The denial of their motion to dismiss based on immunity from suit as improper consenting parties.
 - The finding that no genuine issue of material fact existed as to the impacts of SB 360 and that such impacts constituted an unfunded mandate.
 - The striking of SB 360 in its entirety as unconstitutional.
- **Plaintiffs have cross appealed the court's ruling that their single subject claims were moot.**
- **Appellants' reply brief is due January 14, 2011.**

**Local
Government in
Florida**

FLORIDA'S LOCAL GOVERNMENTS
COUNTIES/CITIES/SPECIAL
DISTRICTS



COMMUNITY &
MILITARY AFFAIRS
SUBCOMMITTEE

Counties: The Florida Constitution

2

- Article VIII, Section 1 of the Florida Constitution requires the state to be divided into political subdivisions called “counties.”
- Counties may be created, abolished or changed by law.

- The Florida Constitution recognizes two types of county government:
 - non-charter.
 - charter.

Non-Charter Government

4

- A county not operating under a county charter has such power of self-government as is provided by general or special law.
- Its governing body may enact, in a manner prescribed by general law, ordinances not inconsistent with general or special law.
- A county ordinance in conflict with a municipal ordinance is not effective within the municipality.

Charter Government

5

- A county operating under a county charter has all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors.
- The governing body of a charter county may enact county ordinances not inconsistent with general law.
- The charter provides which prevails in the event of conflict between county and municipal ordinances.

Section 125.01, Florida Statutes

6

- Adopt rules of procedure.
- Provide for the prosecution and defense of legal causes.
- Provide and maintain county buildings.
- Provide fire protection, hospitals and ambulance service.
- Provide parks, libraries and museums.
- Prepare and enforce comprehensive plans.
- Establish and enforce zoning and business regulations.
- Provide and regulate water, waste and sewage collection and disposal.
- Provide and regulate roads, bridges, tunnels and related facilities.

Section 125.01, Florida Statutes, cont.

7

- Establish and enforce regulations for the sale of alcoholic beverages.
- Enter into agreements with other governmental agencies.
- Establish, merge or abolish, municipal service taxing units.
- Levy and collect taxes, and special assessments; and issue bonds.
- Adopt ordinances and resolutions.
- Create civil service systems and boards.
- Place questions on the ballot at any primary, general or special election.
- Perform any other acts which are in the common interest of the people of the county and are not inconsistent with law, and exercise all powers and privileges not specifically provided by law.

Municipalities: The Florida Constitution

- Article VIII, Section 2 of the Florida Constitution provides that municipalities may be established or abolished, and their charters amended pursuant to general or special law.
- The Constitution grants municipalities all governmental, corporate and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes except as otherwise provided by law.

Chapter 166, Florida Statutes

9

- The Municipal Home Rule Powers Act authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by general or special law.

Special Districts

- Chapter 189, Florida Statutes, the Uniform Special District Accountability Act, generally governs the creation and operations of special districts.
- Other general laws may more specifically govern the operations of certain special districts.

Characteristics of Special Districts

- Special purpose government instead of general purpose (cities and counties).
- Created by general law, special act, local ordinance or rule of the Governor and Cabinet.
- Operate in a limited, defined geographical area.
- Have only those powers expressly provided by, or which can be reasonably implied from, the authority provided in the district's charter.

Examples of Special District Functions

12

- Community Development (574)
- Drainage & Water Control (84)
- Fire Control & Rescue (67)
- Hospital (29)
- Mosquito Control (18)

Dependent Special Districts

- A "dependent special district" is defined as a special district that meets at least one of the following criteria:
 - The membership of its governing body is identical to that of the governing body of a single county or municipality;
 - All members of its governing body are appointed by the governing body of a single county or municipality;
 - Members of its governing body are subject to removal at will by the governing body of a single county or municipality; or
 - The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or municipality.

Independent Special Districts

14

- An independent special district means a special district that is not a dependent special district.
 - Note: A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

Formation of Special Districts

- The Uniform Special District Accountability Act provides that:
- “[i]t is the specific intent of the Legislature that dependent special districts shall be created at the prerogative of the counties and municipalities and that independent special districts shall only be created by legislative authorization....”

Minimum Charter Requirements for Independent Special Districts (Section 189.404, Florida Statutes)

- The purpose of the district.
- The powers, functions and duties of the district regarding ad valorem taxation, bond issuance and other revenue-raising capabilities.
- The methods for establishing the district and amending its charter.
- The membership and organization of the district's governing board.
- The maximum compensation of a governing board member.
- Financial disclosure, noticing and reporting requirements.
- The procedures for conducting any district elections.
- If an independent special district has the authority to levy ad valorem taxes, the millage rate that is authorized.
- Planning requirements.
- Geographic boundary limitations.

Summary

17

- **Counties (67): home rule powers**
 - Non-Charter (47)
 - Charter (20)
- **Municipalities (412): home rule powers**
- **Special Districts (1611)**
 - Dependent (617)
 - Independent (994)