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DATE: February 21, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 1357
RELATING TO: Law Officers/Firefighters/Death Benefits
SPONSOR(S): Representative(s) Negrón and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION YEAS 4 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

Currently if a sworn law enforcement officer, correctional officer or correctional probation officer, or firefighter is accidentally killed in the line of duty, a payment of \$25,000 is made to the survivors of that employee. This bill doubles that payment amount to \$50,000. Currently if a sworn law enforcement officer, correctional officer or correctional probation officer is killed in the line of duty in a felonious attack, or firefighter is killed in the line of duty in a fire that is determined to be an act of arson, a payment of \$75,000 is made to the survivors of that employee. This bill doubles that payment to \$150,000.

Currently the children of an officer or firefighter killed in the line of duty may make use of an education fee waiver to obtain a vocational or undergraduate degree. The fee waiver is limited to 120 credit hours and the child may make use of the waiver until age 25. The bill provides that a surviving spouse may also make use of the educational fee waiver. The surviving spouse must begin a degree program within 5 years of the death of the employee, and the fee waiver is available until the tenth anniversary of the employees death. The bill provides that the surviving spouse and children may use the fee waiver to obtain a post-graduate degree.

The bill also provides rulemaking authority to the Department of Law Enforcement and The Department of Insurance to adjust the amount of the death benefit by the percentage increase of the Consumer Price Index.

There appears to be a negative insignificant fiscal impact to the state and local governments.

These provisions of this bill appear to be a mandate upon local government, however an exemption may apply. Please see section IV.A., "Applicability of the Mandate Provisions" of this analysis.

The bill takes effect July 1, 2002.

The Committee on State Administration adopted two amendments that remove provisions of the bill increasing the death benefit paid upon the death of a law enforcement officer, correctional officer, correctional probation officer or firefighter. These amendments are traveling with the bill. Please see section VI, "Amendments or Committee Substitutes," for an explanation.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

The bill requires the additional expenditure of funds to cover the increased amount of the death benefit. The state universities will have to absorb the additional costs of waived educational fees when surviving spouses of law enforcement officers and firefighters killed in the line of duty make use of the educational fee waiver provided in the bill.

The bill reduces the personal responsibility of these employees by reducing the opportunity of these employees to seek private insurance that would apply in the event employees in those classes are killed in the line of duty.

B. PRESENT SITUATION:

Death Benefits

Section 112.19(2)(a), F.S., provides for a payment of \$25,000 upon the death of a sworn law enforcement officer, correctional officer, or correctional probation officer when the death occurs as a result of an accident. Section 112.19(2)(b), F.S., provides for a payment of \$25,000 upon the death of a sworn law enforcement officer, correctional officer, or correctional probation officer when the death results from an accident that arises while the officer is in "fresh pursuit" or in response to what the officer believed to be an emergency. Section 112.19(2)(c), F.S., provides for a payment of \$75,000 upon the death of an sworn law enforcement officer, correctional officer, or correctional probation officer when the officer is "unlawfully or intentionally" killed in the line of duty.

Section 112.191(2)(a), F.S., provides for a payment of \$25,000 upon the death of a firefighter when the death occurs as a result of an accident. Section 112.191(2)(b), F.S., provides for a payment of \$25,000 upon the death of a firefighter that occurs as a result of an accident that arises when the firefighter responded to what the firefighter believed to be an emergency involving the protection of life or property. Section 112.191(2)(c), F.S., provides for a payment of \$75,000 upon the death of a firefighter when the firefighter is killed in the line of duty as a result of a fire which is subsequently determined to have been caused by an act of arson.

Waiver of Certain Expenses for Post-Secondary Coursework Undertaken by the Minor Survivors of Affected Employees

Section 112.19(3), F.S., provides that for the surviving minor child of a sworn law enforcement officer, correctional officer, or correctional probation officer accidentally killed or is killed in an accident that arises while the officer is in "fresh pursuit" or in response to what the officer believed to be an emergency, or unlawfully and intentionally killed in the line of duty, the state must waive

educational fees equal to 120 credit hours for a vocational or undergraduate degree. These children may use the fee waiver until age 25.

Likewise, s. 112.191(3), F.S., provides that for the surviving minor child of a firefighter accidentally killed as a result of an accident that arises when the firefighter is responding to what the firefighter believed to be an emergency involving the protection of life or property, or killed in the line of duty as a result of a fire which is subsequently determined to have been caused by an act of arson as specified in s. 112.191(2)(c), F.S., the state must waive educational fees equal to 120 credit hours for a vocational or undergraduate degree. Again, these children may make use the fee waiver until age 25.

C. EFFECT OF PROPOSED CHANGES:

Death Benefits

This bill increases the death benefit paid to survivors of a sworn law enforcement officer, correctional officer, or correctional probation officer killed in the line of duty. When the officer is accidentally killed, the benefit increases from \$25,000 to \$50,000. When the officer is unlawfully and intentionally killed, the benefit increases from \$75,000 to \$150,000.

This bill increases the death benefit paid to survivors of a firefighter killed in the line of duty. When the firefighter is accidentally killed, the benefit increases from \$25,000 to \$50,000. When the firefighter is killed as a result of a fire which is subsequently determined to have been caused by an act of arson, the benefit increases from \$75,000 to \$150,000.

Adjustment of the Death Benefit Amount By Rule

Additionally the bill provides for the Bureau of Crime Prevention and Training (for law enforcement officers) and the Division of the State Fire Marshall (for firefighters) to adjust, by rule, the amounts paid as a death benefit based on the percentage increase of the Consumer Price Index (CPI) reported by the United States Department of Labor. The problem with this provision is that it assumes an annual increase in the CPI. While not necessarily plausible, it is conceivable that the CPI could decrease for a period of time immediately after the effective date of the bill. This could result in the bureau and the division attempting to lower the benefit amount below what should be considered the statutory floor for the benefit amount. This provision should be rewritten to provide that when the CPI is reported as increasing over the previous year, then the benefit should be adjusted by that percentage increase. This proposed change, however, would not take into consideration continued decreases in the CPI.

Expansion of the Educational Benefit to the Surviving Spouse

The bill provides that the surviving spouse of either a sworn law enforcement officer or firefighter may apply for a waiver of educational fees for purposes of obtaining a post-secondary degree. This is in addition to the surviving children receiving the fee waiver. The bill provides that the surviving spouse and children may use this waiver to obtain a postgraduate degree. The bill provides that the "benefits provided to a spouse under this subsection [authorizing the educational fee waiver] must commence within 5 years after the death occurs, and entitlement thereto shall continue until the 10th anniversary of that death." The surviving children may use the benefit until age 25. As the bill extends the education benefit to the surviving spouse, it follows that there should be a limitation on the time that the surviving spouse may make use of the benefit.

D. SECTION-BY-SECTION ANALYSIS:

Please see "Effect Of Proposed Changes," above.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There appears to be a insignificant but negative fiscal impact to state and local governments. Note that any fiscal impact would be on an individual governmental entity as it pays the benefit to the survivors of a law enforcement officer or firefighter killed in the line of duty.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Article VII, Section 18, Florida Constitution, excuses local governments from complying with state mandates which impose negative fiscal consequences. Subsection (a) provides, "[n]o county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds" unless certain requirements are met. However, several exemptions and exceptions exist. Subsection (a) of Art. VII, Sec. 18, Florida Constitution, contains an exception for laws which apply to all persons similarly situated.

This bill appears to require the state, counties, cities and special districts to expend an unknown amount of funds in the event affected employees die in the line of duty by accident or from a felonious act. This bill appears to apply to all persons similarly situated and provides a statement of an important state interest; therefore an exception may apply which would then make the provisions of this bill enforceable against local governments.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Department of Law Enforcement reports for the period between 1996 and 2000, 11 officers were killed by felonious acts and that 8 were killed accidentally. The State Fire Marshall indicates that between 1996 and 2000, 7 firefighters "were determined to have died from injuries, heart attacks or illnesses directly attributable to a specific emergency incident or training activity." The number of firefighter deaths reported by the State Fire Marshall may go beyond the parameters of this bill, but the number does give an indication of the frequency of firefighter deaths that are work related.

The Department of Education reports that for the Fall 2001 term, 3 persons availed themselves of the educational fee waiver provision of s. 112.19, F.S., at state universities; no persons made use of the educational fee waiver provision of s. 112.191, F.S.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its February 21, 2002, meeting, the Committee on State Administration adopted two amendments which are now traveling with the bill. These amendments removed from the bill the provisions that would double the amount paid the survivors of a law enforcement officer, correctional officer, correctional probation officer, or firefighter upon the accidental or felonious death of the affected employee. If these amendments become incorporated into the bill the bill would have no fiscal impact upon local governments and therefore would not raise a constitutional concern regarding unfunded mandates upon local governments.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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