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**DATE:** May 23, 2002

**\*\*AS PASSED BY THE LEGISLATURE\*\***  
**CHAPTER #:** 2002-191, Laws of Florida

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

**BILL #:** CS/HB 1357, 1ST ENG.

**RELATING TO:** Law Officers/Firefighters/Death Benefits

**SPONSOR(S):** Fiscal Responsibility Council and Representative(s) Negron 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 YEAS 26 NAYS 0
- (3)
- (4)
- (5)

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**I. SUMMARY:**

Currently, if a sworn law enforcement, correctional 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 act 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 a 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 act doubles that payment to \$150,000.

Currently, the children of such 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 act 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 employee's death. The act provides that the surviving spouse and children may use the fee waiver to obtain a post-graduate degree.

This act 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. However, the departments cannot adjust the death benefit amount lower than the statutory amount.

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

The provisions of this act 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.

This act takes effect July 1, 2002.

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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 act 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 act.

The act reduces the personal responsibility of these employees by reducing the responsibility 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, correctional, or correctional probation officer, who dies in the performance of his or her law enforcement duties, if 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, correctional, 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, correctional, 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, who dies in the performance of his or her duties, if 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 the state must waive educational fees equal to 120 credit hours for a vocational or undergraduate degree for a surviving minor child of a sworn law enforcement, correctional, or correctional probation officer accidentally killed, 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. A surviving child may use the fee waiver until age 25.

Likewise, s. 112.191(3), F.S., provides that the state must waive educational fees equal to 120 credit hours for a vocational or undergraduate degree for a surviving minor child of a firefighter 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. Again, a surviving child may make use the fee waiver until age 25.

**C. EFFECT OF PROPOSED CHANGES:**

**Death Benefits**

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

In situations resulting in the payment of a death benefit to the survivors of a sworn law enforcement, correctional, or correctional probation officer killed in the line of duty, this act provides that the amount paid to the survivors cannot be less than the actual amount of the death benefit stated in the statutes. This precludes the operation of the annual adjustment of the death benefit amount paid to the survivors (discussed below) from being below the statutory amount.

This act increases the death benefit paid to survivors of a firefighter killed in the line of duty. If a firefighter is accidentally killed, the benefit increases from \$25,000 to \$50,000. If a 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.

Likewise, in situations resulting in the payment of a death benefit to survivors of a firefighter killed in the line of duty, this act provides that the amount paid to the survivors cannot be less than the actual amount of the death benefit stated in the statutes. This precludes the operation of the annual adjustment of the death benefit amount paid to the survivors (discussed below) from being below the statutory amount.

**Adjustment of the Death Benefit Amount By Rule**

This act provides for the Bureau of Crime Prevention and Training, Department of Law Enforcement (for law enforcement, correctional, or correctional probation officers) and the Division of the State Fire Marshall, Department of Insurance (for firefighters) to adjust, by rule, the amounts paid as a death benefit paid to the survivors of a law enforcement, correctional, or correctional probation officer or firefighter killed in the line of duty based on the percentage increase of the Consumer Price Index (CPI) reported by the United States Department of Labor. This adjusted amount cannot be lower than the amount stated in statute.

**Expansion of the Educational Benefit to the Surviving Spouse**

This act provides that the surviving spouse of a sworn law enforcement, correctional, or correctional probation officer or firefighter killed in the line of duty may apply for a waiver of educational fees for purposes of obtaining a post-secondary degree. This is in addition to any surviving children receiving the fee waiver. This act provides that the surviving spouse and any children may use this

waiver to obtain a postgraduate degree. This act limits the use of the fee waiver by the surviving spouse: "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." Any surviving children may use the benefit until age 25. As the act 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 on state and local governments. Note that it is an individual government which is impacted as that government pays the benefit to the survivors of a sworn law enforcement, correctional, or correctional probation officer or firefighter killed in the line of duty and employed by that government.

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 that "[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 act requires 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 act applies to all persons similarly situated and provides a statement of an important state interest. Therefore, an exception applies which makes the provisions of this act enforceable against local governments.

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This act 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:**

This act 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 that for the period between 1996 and 2000, 11 officers were killed by felonious acts and 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 act, 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. (for law enforcement, correctional, and correctional probation officers), at state universities; no persons made use of the educational fee waiver provision of s. 112.191, F.S. (for firefighters).

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

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

On February 27, 2002, the Fiscal Responsibility Council adopted two amendments and reported HB 1357 as a council substitute. These amendments nullified the two amendments previously adopted by

the Committee on State Administration. The amendments to CS/HB 1357 made it identical to HB 1357 as originally introduced.

On March 7, 2002, the House of Representatives adopted a strike-everything amendment that revised the provision that authorizes the Department of Law Enforcement and the Department of Insurance to adjust by rule the amounts paid as a death benefit paid to the survivors of a law enforcement, correctional, or correctional probation officer or firefighter killed in the line of duty based on the percentage increase of the Consumer Price Index (CPI) reported by the United States Department of Labor. That amendment also provided that the amount paid to the survivors cannot be less than the actual amount of the death benefit stated in the statutes. This precludes the operation of the annual adjustment of the death benefit amount paid to the survivors from being below the statutory amount.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

David M. Greenbaum

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Joe McVaney

Staff Director:

David Coburn

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON STATE ADMINISTRATION:**

Prepared by:

David Greenbaum

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.