

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 129

Military Affairs

SPONSOR(S): Renuart

TIED BILLS:

IDEN./SIM. BILLS: CS/SB 464

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	12 Y, 0 N, As CS	Fudge	Hoagland
2)	Government Operations Appropriations Committee		Delaney	Topp
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

S. 115.07, F.S. authorizes public employees who are members of the military reserves or the National Guard to be granted leaves of absence for reserve or guard training for up to 17 days per year. The leave provided by law is intended to protect the employee from any loss of vacation leave, pay, or time for days they are assigned to active duty or in-active duty training.

The bill expands the amount of leave to 240 hours (30 days). In addition, the bill authorizes the creation of a second Assistant Adjutant General of the Florida National Guard at the state's National Guard Joint Forces Headquarters. The position is funded by federal funds. The bill also contains a statement that the Legislature finds and declares that this act fulfills an important state interest.

Based on information provided by the Department of Military Affairs (Department), approximately 835 state and 1,300 local government employees would be impacted. The Department estimated that approximately 30 percent of the employees may be impacted in any given year.

While a fiscal impact has been estimated based strictly on the potential additional hours of leave associated with the information provided above and estimated on current average salaries (impacts of \$547,000 to the state and approximately \$850,000 to local governments), it is indeterminate if the estimated amount of additional leave will be needed or used, and it is expected that agencies and government employers will be able to absorb the workload within existing resources.

The bill also contains a statement that the Legislature finds and declares that this act fulfills an important state interest.

The bill is effective July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

S. 115.07, F.S. authorizes leaves of absence of up to 17 days per year for employees of the state, county, municipality, or political subdivision of the state, who are commissioned reserve officers or reserve enlisted personnel in the United States military or naval service or members of the National Guard.<sup>1</sup> Such leaves of absence are granted for the purposes of attending active or in-active duty training without the loss of pay, leave or efficiency rating.

While the Guard and Reserves still have a commitment of one weekend a month and two weeks a year<sup>2</sup>, all members, prior to deployment, must also engage in more specialized training of up to 55 days. Per the staff in the Department of Military Affairs, this additional specialized training has increased since September 11, 2001, and is necessary to prepare the members for combat operations.

##### Additional Assistant Adjutant General Army

Florida is one of 15 states that have undergone a restructuring of its Army National Guard Enhanced Infantry Brigade. The Enhanced Infantry Brigade is composed of approximately 3,500 soldiers and, until recently, has been commanded by an officer in the rank of Brigadier General. The new organizational structure replicates the active duty Army's Infantry Brigade Combat Team and will now be commanded by an officer with the rank of colonel.

States such as Florida have been allowed to transfer the former Infantry Brigade General Officer position to the state's National Guard Joint Forces Headquarters into an additional Assistant Adjutant General Army position. With more than 10,000 Florida Army National Guard soldiers currently serving, authorization for two Army officers serving in the grade of Brigadier General is consistent with authorizations in other states with similar forces.

##### Effect of Proposed Changes

The bill increases the amount of authorized leave from 17 days to 30 days, which is reflected as 240 hours. Currently, there are approximately 2,000 Guard or Reserve members who work for 489 different

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<sup>1</sup> Section 115.07, F.S.

<sup>2</sup> <http://www.floridaguard.army.mil/careers/army.aspx>

Florida Retirement System employers, which include state and local governments. Of those 2,000 employees, all use the existing 17 days for annual training. The Department of Military Affairs anticipates that less than 30% of those employees will be affected by the additional training requirement.

The bill also amends s. 250.10, F.S., to authorize the Adjutant General of the Florida National Guard to appoint a federally recognized officer to a second position of Assistant Adjutant General position. Such appointment is subject to confirmation by the Senate. The appointee must have served in the Florida Army Guard for the preceding five years and have attained the rank of colonel or higher at the time of appointment. The position is funded from federal funds.

The bill contains a finding that the act fulfills an important state interest.

**B. SECTION DIRECTORY:**

Section 1: Amends s. 115.07(2), F.S., by extending leaves of absence from 17 days to 240 hours and repeals section referring to shift work.

Section 2: Amends s. 250.10, F.S., providing for an additional Assistant Adjutant General.

Section 3: Finds and declares that the act fulfills an important state interest.

Section 4: Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

Based on the Department of Military Affairs projected number of impacted employees, a 30 percent annual utilization, and an estimated average annual salary, the total estimated cost to the state would be \$547,000. Of which, approximately \$330,000 would be General Revenue. However, it is indeterminate whether all of the additional 13 days will be needed or used, and it is expected that most state agencies will be able to absorb the additional workload with existing staff or resources.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

Based on the Department of Military Affairs projected number of impacted employees, a 30 percent annual utilization, and an estimated average annual salary, the total estimated cost to the local governments would be approximately \$850,000. However, it is indeterminate whether all of the additional 13 days will be needed or used, and it is expected that most local agencies will be able to absorb the additional workload with existing staff or resources. However, there could be instances where smaller employers or those with a higher percentage of impacted individuals may find the number of staff available for work more challenging at times.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision may be applicable because the bill could require counties or municipalities to spend funds or take an action requiring the expenditure of funds. If those provisions do apply in this case, in order for the law to be binding upon the cities and counties, the legislature must find that the law fulfills an important state interest and one of the following must apply:

- Funds estimated at the time of enactment to be sufficient to fund such expenditures are appropriated;
- A county or municipality is authorized to enact a funding source not available for such local governments on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The law must be approved by two-thirds membership of each house of the legislature; or
- The law must apply to all persons similarly situated.

As the bill includes a statement of important state interest and applies to all persons similarly situated, it appears that none of the other criteria need apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Florida Association of Counties has indicated that small counties may not have the redundancy necessary to backfill personnel for this additional amount of time, but indicated that they were taking not position on the bill.

The Department of Management Services (DMS) indicated that current law requires:

*for any officer or employee whose working day consists of a shift measured in hours, each such 12-hour shift or less shall equal 1 working day leave of absence. All other shifts over 12 hours and up to 24 hours shall equal 2 working days leave of absence.*

Employees, regardless of position, are paid on an hourly basis. Consequently, for the payroll system to account for the time used by an employee for military leave, it must be posted as an hourly use. This results in an inequitable benefit for similarly situated employees who have different work schedules, i.e., eight hour work day vs. a ten hour work day. DMS suggests that the leave should be based on hours (i.e. 240 hours = 8 hours x 30 days), which would be prorated based on the position's full-time equivalency (FTE).<sup>3</sup>

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<sup>3</sup> Department of Management Services Substantive Bill Analysis for HB 129 dated January 29, 2010 (on file with the Full Appropriations Council on General Government & Health Care).

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 10, 2010, the Committee on Military & Local Affairs adopted a strike-all amendment that reflects leave time in hours instead of days, repeals a now inapplicable provision referring to shift work, and authorizes the establishment of a second Assistant Adjutant General Army position at the state's National Guard Joint Forces Headquarters. The additional position is federally funded and, therefore, has no fiscal impact on state funds.