

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)	<u>Military & Local Affairs Policy Committee</u>	<u>12 Y, 0 N, As CS</u>	<u>Fudge</u>	<u>Hoagland</u>
2)	<u>Government Operations Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
3)	<u>Economic Development & Community Affairs Policy Council</u>	<u></u>	<u></u>	<u></u>
4)	<u></u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Current law provides up to 30 days of leave for state or local government officers and employees when they are engaged in state active duty as a member of the National Guard. However, current law only authorizes 17 days of leave for those same employees when they are engaged in national training as a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or member of the National Guard. The leave provided by law protects the employee from any loss of vacation leave, pay, time, or efficiency rating.

The bill revises the way leave is reflected from days to hours and increases the amount of leave to 240 hours. The bill also authorizes the Adjutant General of the Florida National Guard to appoint a federally recognized officer to a second position of Assistant Adjutant General Army. 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

Current law provides any officer or employee of the state or its political subdivisions, who is a member of the National Guard, with up to 30 days of leave without loss of pay, time, or efficiency rating, when engaged in state active duty.¹ However, when engaged in training ordered under the provisions of the United States military or naval training regulations, current law only authorizes leaves of absence of up to 17 days for those same employees who are commissioned reserve officers or reserve enlisted personnel in the United States military or naval service or members of the National Guard.² Leaves of absence for additional or longer periods of time are granted, for assignment to duty functions of a military character, without pay and without loss of time or efficiency rating.

While the Guard and Reserves still have a commitment of one weekend a month and two weeks a year³, all members, prior to deployment, must also engage in more specialized training of up to 55 days. This additional specialized training prepares 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 as 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.

¹ National Guard members who are employees of the state, of any county or school district of the state, or of any municipality or political subdivision of the state, are also entitled to leave of absence when engaged in active state duty for a named event, declared disaster, or operation pursuant to s. 250.28 or s. 252.36. However, the leave of absence may not exceed 30 days for each emergency or disaster. Section 250.48, F.S.

² Section 115.07, F.S.

³ <http://www.floridaguard.army.mil/careers/army.aspx>

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 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 Army. 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 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 for Army

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:

To the extent that state employees will no longer utilize annual leave or take leave without pay, there may be additional state expenditures. Based on 30% utilization the total estimated cost to the state is \$547,092. In addition, there may be instances where affected employees comprise a greater percentage of the agency's workforce. In those instances the agency may experience a loss of productivity. However, those situations cannot be identified at this time. Failure to authorize the expansion would force military members who exceed 17 days of annual training to use personal vacation time or take leave without pay in order to perform their required military duties.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The total estimated cost to local governments based on 30% utilization is \$851,760. There may be instances where affected employees comprise a greater percentage of a local government's workforce. In those instances the local government may experience a loss of productivity.

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 appears to apply because the bill requires counties or municipalities to spend funds or take an action requiring the expenditure of funds. However, the amount of the expenditure is insignificant, and therefore an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

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.

The Department of Management Services (DMS) indicates 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).⁴

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.

⁴ 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).