

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/SB 464

INTRODUCER: Transportation and Economic Development Appropriations Committee and Senator Fasano

SUBJECT: Military Affairs/Leave of Absence

DATE: February 18, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>MS</u>	Favorable
2.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	Favorable
3.	<u>Belcher</u>	<u>Noble</u>	<u>TA</u>	Fav/CS
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill expands from 17 days annually to 240 hours annually the leave of absence authorized to attend military training for public employee members of the U. S. military Reserves and National Guard troops. The cost to governmental entities for the expansion of the administrative leave benefit is unknown due to unknown variables.

The bill also 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.

This bill substantially amends sections 115.07 and 250.10 of the Florida Statutes.

II. Present Situation:

Leaves of Absence for Training

Current law authorizes officers and employees of the state, the counties, and the municipalities or political subdivisions of the state 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 annually. Such leaves of absence are granted for the purpose of attending active or in-active duty training. Reserve and National Guard members are entitled to leaves of absence without loss of vacation leave, pay, time, or efficiency rating on days they are assigned to active duty or in-active duty for training, pursuant to s. 115.07, F.S.¹.

According to Department of Military Affairs officials, current Reserve and National Guard operational training requirements in support of worldwide military operations exceed the authorized 17 days annually per member.

Authorization of Leave Days versus Leave Hours

According to the Department of Management Services:

State Personnel System agencies currently administer the 17-day provision on the basis of the employee's established work schedule. However, because the current statute stipulates that any officer or employee whose working day consists of a 12-hour shift or less receives one working day leave of absence, and that all other shifts over 12 hours and up to 24 hours receives 2 working days leave of absence, leave administration results in an inequitable benefit for full-time and part-time employees. This is because employees, regardless of position, are paid on an hourly basis. In order for the payroll system to account for the time used by an employee for military leave, it must be posted as an hourly use. The current baseline benefit is 136 hours (8 hours x 17 days) from which employees track their military training time usage. The problem arises when employees need to use more time because they work on a flexible work schedule (i.e., a work schedule consisting of more than 8 hours per day such as four - 10 hour days which equates to 170 hours (10 hours x 17 days)). Therefore, similarly situated employees are receiving a disparate benefit, depending on their work schedule.

The payroll/leave system must convert the allotted days to hours for the system to accurately track the usage of military leave, thus increasing the amount of paid leave inadvertently increases the inequity of this benefit for employees. DMS has made a recommendation to correct the inequity created by stating the leave as days versus hours would be to base the leave on hours, which would be prorated based on the position's full-time equivalency (FTE).

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

¹ Section 115.09, F.S., addresses leave for active military service, and s. 250.48, F.S., addresses leaves of absence for active state duty for named events, disasters, or operations.

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.

III. Effect of Proposed Changes:

CS/SB 464 amends s. 115.07, F.S., to increase the amount of time granted annually to members of the Reserves and National Guard for leaves of absence as a matter of legal right from 17 days annually to 240 hours annually.

The bill 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 finds and declares that the act fulfills an important state interest.

The bill provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires cities and counties to expend funds to grant certain employees additional paid military leave, the provisions of Section 18(a) of Article VII of the State Constitution may apply. If those provisions do apply, 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 (see Section 3 of the bill) and one of the following relevant exceptions must be applicable:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:**Leaves of Absence**

Section 115.07, F.S., only applies to officers and employees of the state, the counties, and the municipalities or political subdivisions of the state who are members of the military reserves or the National Guard. According to data furnished by the Department of Military Affairs, there are 2,131 reservists and National Guard personnel employed by various state, county, and municipal government entities. Expansion of the leave of absence benefit authorized in current law by additional leave time could result in a maximum reduction of employee availability by a total of 27,703 [8-hour] person-days. However, 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.

For FY 2008-2009, approximately 79,700 hours of military training leave were claimed by a combined 798 employees in the State Personnel System. The average hourly cost for career service employees in FY 2008-2009 was approximately \$17. If the compensation of the employees claiming the military training leave is similar to the statewide average salary, the cost of military training leave for agencies in the State Personnel System is approximately \$1.36 million annually. It appears that, on average, each employee claimed the equivalent of approximately 12.5 days of military training leave.

The cost to government sector entities is unknown due to unknown variables such as how many members will actually exceed 17 days of annual training, differing employee salary and benefits costs, and existing governmental entity contingency policy covering workloads during the absence of military members.

Additional Assistant Adjutant General Army

This position is federally funded and there is no additional cost to the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is silent with respect to which of the two Assistant Adjutant Generals will succeed to command in the absence or incapacitation of the Adjutant General. Military protocol normally dictates that the officer with the earliest date of rank is senior and thus eligible to succeed to command.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Transportation and Economic Development Appropriations Committee on February 17, 2010:

The CS differs from the bill as filed in the following ways:

- Authorizes leave for military training up to 240 working hours annually rather than 30 working days annually; and
- Finds and declares that the act fulfills an important state interest.

- B. **Amendments:**

None.