

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 765 Leave of Absence to Officials and Employees

**SPONSOR(S):** Daley

**TIED BILLS:** IDEN./SIM. BILLS: SB 818

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Burgess	Darden
2) Appropriations Committee	25 Y, 0 N	Perez	Pridgeon
3) State Affairs Committee			

### SUMMARY ANALYSIS

The provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) apply to the state. USERRA provides employment protections to servicemembers who have to leave employment to perform military service. USERRA requires compliance of private and public employers, including at the state and local level.

Current law provides a paid leave of absence for state officials and employees, as well as the officials and employees of counties, municipalities, and other political subdivisions of the state, for participation in training or active military service.

A public official or employee who is a servicemember of the National Guard or a reserve component of the United States Armed Forces is eligible to receive full public pay, regardless of any other compensation from the military or other source, for the first 30 days of a leave of absence to perform active military service. Beyond the first 30 days, an employer may supplement military pay to bring the total salary of the employee to the amount earned before the start of active military duty. During the time that a public employee is in active military service, the employer must continue to provide state-issued health insurance and other employee benefits.

The bill revises a requirement that a public employer provide an employee or official who is a servicemember a full paid leave of absence for the first 30 days of active military service. The bill limits application of the paid leave of absence to a servicemember who is activated under federal military service that is 90 consecutive days or more.

The bill may have a positive fiscal impact on state and local governments.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

**STORAGE NAME:** h0765c.APC

**DATE:** 2/8/2024

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Uniformed Services Employment and Reemployment Rights Act (USERRA)<sup>1</sup>

The provisions of the federal USERRA apply to the state.<sup>2</sup> USERRA provides employment protections to servicemembers who have to leave employment to perform military service.

USERRA areas of coverage apply to:

- Reemployment rights;
- Freedom from discrimination and retaliation; and
- Continuation of health insurance coverage.<sup>3</sup>

USERRA requires compliance of private and public employers, including at the state and local level.<sup>4</sup>

##### Public Employment Leave of Absence for Military Duty

Current law provides a paid leave of absence for state officials and employees, as well as the officials and employees of counties, municipalities, and other political subdivisions of the state, for participation in training or active military service.<sup>5</sup> The provisions apply to servicemembers serving as a member of the:

- United States Armed Forces on active or state active duty;<sup>6</sup>
- Florida National Guard; or
- United States Reserve Forces.<sup>7</sup>

A public official or employee who is a servicemember of the National Guard or a reserve component of the United States Armed Forces is eligible to receive full public pay, regardless of any other compensation from the military or other source, for the first 30 days of a leave of absence to perform active military service.<sup>8</sup> Beyond the first 30 days, an employer may supplement military pay to bring the total salary of the employee, including base military pay, to the amount earned before the start of active military duty.<sup>9</sup> During the time that a public employee is in active military service, the employer must continue to provide health insurance and other employee benefits.<sup>10</sup>

A leave of absence due to military training is addressed separately from active military duty.<sup>11</sup> A public official or employee who is a servicemember is entitled to a leave of absence without loss of vacation leave, pay, time, or efficiency rating for each day ordered to military training.<sup>12</sup> However, paid leaves of absence is limited to 240 working hours in any one annual period. For any absence in excess of 240

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<sup>1</sup> 38 U.S.C. ch. 43.

<sup>2</sup> S. 115.15, F.S.

<sup>3</sup> U.S. Dept. of Labor, *Veterans' Employment and Training Service, Know Your Rights*, <https://www.dol.gov/agencies/vets/programs/userra/aboutuserra#:~:text=USERRA%20prohibits%20employment%20discrimination%20against,obligations%2C%20or%20intent%20to%20serve> (last visited Jan. 19, 2024).

<sup>4</sup> U.S. Dept. of Labor, *A Guide to the Uniformed Services Employment and Reemployment Rights Act*, <https://www.dol.gov/agencies/vets/programs/userra/USERRA-Pocket-Guide#:~:text=USERRA%20applies%20to%20virtually%20all,size%2C%20including%20the%20Federal%20Government> (last visited Jan. 20, 2024).

<sup>5</sup> Ss. 115.07, 115.09, and 115.14, F.S.

<sup>6</sup> The "armed forces" include the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard. S. 250.01(4), F.S.

<sup>7</sup> S. 250.01(19), F.S.

<sup>8</sup> Ss. 115.09 and 115.14, F.S. See also Op. Att'y Gen. Fla. 98-43 (1998).

<sup>9</sup> Section 115.14, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> S. 115.07, F.S.

<sup>12</sup> S. 115.07(2), F.S.

hours, an employer may grant administrative leave without pay, but may not reduce a servicemember's time or efficiency rating for providing such leave.

### **Effect of Proposed Changes**

The bill revises a requirement that a public employer provide an employee or official who is a servicemember a full paid leave of absence for the first 30 days of active military service. The bill limits application of the paid leave of absence to a servicemember who is activated under federal military service that is 90 consecutive days or more.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 115.09, F.S., providing certain public officials and employees may receive full pay for a leave of absence relating to active federal military service that lasts a certain length of time.

Section 2: Amends s. 115.14, F.S., providing certain public officials and employees may receive full pay for a leave of absence relating to active federal military service that lasts a certain length of time.

Section 3: Provides an effective date of July 1, 2024.

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

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

1. Revenues:

None.

2. Expenditures:

The bill may have a positive impact on state government expenditures to the extent employees currently receive pay for leaves of absence of less than 90 days.

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

1. Revenues:

None.

2. Expenditures:

The bill may have a positive impact on local government expenditures to the extent employees currently receive pay for leaves of absence of less than 90 days.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

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

None.