

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1208

SPONSOR: Governmental Oversight and Productivity Committee and Senator Geller

SUBJECT: Death Benefits for Dependents and Beneficiaries of Slain Officers and Firefighters

DATE: March 11, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Wilson	GO	Favorable/CS
2.	_____	_____	CA	_____
3.	_____	_____	APJ	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This Committee Substitute for SB 1208 increases the death benefit paid to survivors of public safety officers and firefighters, who are killed in the line of duty, from \$25,000 to \$50,000 if the officer or firefighter is accidentally killed and from \$75,000 to \$150,000 if the officer or firefighter is unlawfully and intentionally killed. Further, the bill provides that these amounts shall be annually adjusted based on the percentage increase of the Consumer Price Index; however, the actual amount paid may not be less than the statutorily specified amount. Finally, the bill expands the educational benefits currently available to children of slain officers and firefighters to also include spouses and postgraduate expenses.

Committee Substitute for Senate Bill 176, which also provides enhanced educational benefits to the children of slain officers and firefighters, has been passed by the Senate and is now in House Messages. Some of the provisions of CS/SB 176 and this bill conflict. *See* "Related Issues," *infra*.

This bill substantially amends the following sections of the Florida Statutes: 112.19 and 112.191.

II. Present Situation:

Pursuant to ss. 112.19 and 112.191, F.S., certain death benefits must be provided to the beneficiaries or the estate of slain public safety officers and firefighters. Public safety officers, who must be employed by the state or one of its political subdivisions, are defined as: law enforcement officers, correctional officers, correctional probation officers, state attorney or public defender investigators, members of bomb disposal units, and other certified officers, whose duties require the service of process or serving as a bailiff in circuit or county court.¹

¹ Section 112.19(1)(b), F.S.

Firefighters, who must also be employed by the state or one of its political subdivisions, are defined as full-time certified firefighters or volunteer firefighters whose primary duties are the prevention and extinguishing of fires, the protection of life and property from fire, and the enforcement of fire prevention and control law.²

Death benefits must be paid as follows:

- \$25,000 when the officer or firefighter, while engaged in the performance of his or her duties, is accidentally killed or receives accidental bodily injury which results in the officer's or firefighter's death;
- \$50,000 when the accidental death occurs as a result of the officer's response to fresh pursuit or to what the officer reasonably believes to be an emergency, or as a result of the firefighter's response to what is reasonably believed to be an emergency involving the protection of life or property; or
- \$75,000 when the officer or firefighter, while engaged in the performance of his or her duties, is intentionally killed or dies as a result of an intentional act.³

Furthermore, in limited circumstances, payments for burial expenses and health insurance premiums of spouses and children are required.⁴

Finally, the children of an officer or firefighter may also be entitled to post-high school educational expenses.⁵ In order for this benefit to attach, the death must have occurred on or after: (a) June 22, 1990, and must have been the accidental result of the officer's response to fresh pursuit or to what the officer reasonably believed to be an emergency, or the accidental result of the firefighter's response to what he or she reasonably believed to be an emergency involving the protection of life or property; or (b) July 1, 1980, and must have been the result of an intentional act.⁶ If the conditions are met, the state is required to waive "tuition and matriculation and registration fees" for children of the officer or firefighter who pursue vocational-technical certificates and undergraduate educations at state institutions.⁷

"Tuition" is statutorily defined as the additional fee for instruction provided by a public postsecondary state educational institution charged to non-Florida students.⁸ "Matriculation fee" is statutorily defined as the basic fee charged to a student for instruction provided by a

² Section 112.191(b), F.S.

³ Sections 112.19(2) and 112.191(2), F.S.

⁴ Sections 112.19(2)(f)-(h) and 112.191(2)(f)-(h), F.S.

⁵ Sections 112.19(3) and 112.191(3), F.S.

⁶ Data from the Florida Department of Law Enforcement provides that 35 municipal, county, state and university officers have been accidentally killed in the line of duty since 1991, and 77 municipal, county, state and university officers have been intentionally killed in the line of duty since 1980. Data from the Department of Corrections provides that a total of two correctional and correctional probation officers have been accidentally killed in the line of duty since 1990, and four correctional and correctional probation officers have been intentionally killed since 1980. Data from the Fire Marshall's Office provides that 50 firefighters have been killed in the line of duty since 1980, with 19 of those deaths occurring since 1990. Information regarding the accidental or intentional nature of the firefighters' deaths was unavailable. This information is current as of January 2001.

⁷ Section 112.19, F.S.

⁸ Section 228.041(33), F.S.

postsecondary state educational institution.⁹ There is no statutory definition for the term “registration fees.” Representatives from this state’s universities and colleges have indicated that in practice the term “registration fees” has been construed to include the following statutorily-authorized fees: (a) student financial aid;¹⁰ (b) building and Capital Improvement Trust Fund fees;¹¹ and (c) health, athletic, activity and service fees.¹²

These educational fee waivers are limited to a total of 120 credit hours and may only continue until the child is twenty-five years of age. Additionally, the child must be in good standing with the institution and comply with the institution’s discipline and scholarship requirements while in either a part- or full-time program.

III. Effect of Proposed Changes:

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

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

Adjustment of the Death Benefit Amount By Rule: The bill provides for the Bureau of Crime Prevention and Training (for law enforcement officers) and the Division of the State Fire Marshall (for firefighters) to adjust, by rule, the amounts paid as a death benefit based on the percentage increase of the Consumer Price Index (CPI) reported by the United States Department of Labor; however the bill specifies that the actual amount paid shall never be less than the statutorily specified amounts of \$50,000 and \$150,000.

Expansion of the Educational Benefit to the Surviving Spouse: The bill provides that the surviving spouse, in addition to the children, of either a sworn law enforcement officer or firefighter may apply for a waiver of educational fees for purposes of obtaining a post-secondary degree. Further, the bill adds that the surviving spouse and children may use this waiver to obtain a postgraduate education.¹³ The bill retains current law that limits the undergraduate benefits to 120 credit hours, and adds that postgraduate benefits are limited to the time in which the child or spouse is pursuing a postgraduate degree and is fulfilling the program’s requirements. Further, the bill substitutes the term “statutorily authorized fees” for the term “registration fees.”

⁹ Section 228.041(32), F.S.

¹⁰ Section 240.209, F.S.

¹¹ Section 240.209, F.S.

¹² Section 240.235, F.S.

¹³ The term “postgraduate education” is not defined in law; however, a representative from the state’s universities has indicated that the term is commonly understood to mean studies after receipt of a bachelor’s degree.

The bill provides that the “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.” The bill retains current law providing that surviving children may use the benefit until age 25.

Legislative Intent and Effective Date: The bill provides that the act fulfills an important state interest. Further, the bill provides that it takes effect on July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill increases the benefits that are to be paid by the employers of slain public safety officers and firefighters.¹⁴ Accordingly, the counties, cities, special districts, and the state appear to be affected by this bill. The bill does not fund this requirement.

Pursuant to Art. VII, s. 18(a) of the Florida Constitution, the Legislature cannot pass a law requiring a county or municipality to spend funds unless an appropriation of sufficient funding is provided. However, the bill is anticipated to have an insignificant fiscal impact (less than \$1.6 million).

Between 1996 and 2000, the deaths of approximately 26 officers and firefighters would have likely entitled their beneficiaries to the benefits of the statutes amended by this bill.¹⁵ This averages to approximately seven persons per year. The maximum payment under this bill is \$150,000 per person. Using these figures, the annual cost would be \$1,050,000 with \$525,000 of that amount resulting from the increase provided by this bill. The actual fiscal impact of this cost would most likely not be the full \$1,050,000, as some governmental entities purchase insurance that will cover these death benefits. In such a case, the only fiscal impact of the law is cost of insurance benefits. In any case, however, even if the full amount were applicable this bill would appear to exempt from the requirements of Art. VII, s. 18(d), Florida Constitution, because its fiscal impact would likely be less than \$1.6 million.

Alternatively, if an increase in deaths among officers and firefighters were to cause the fiscal impact of this law to exceed \$1.6 million, the bill appears to remain constitutional as it would be subject to an exception to the requirements of Art. VII, s. 18(d), Florida Constitution, due to the fact that it applies to all persons similarly situated and provides a statement of an important state interest.

¹⁴ Sections 112.19 and 112.191, F.S., require employers to be liable for the sums due under the sections. These sections also specify that the state is responsible for waiving the education expenses.

¹⁵ The Florida Department of Law Enforcement reports that between 1996 and 2000, 11 officers were killed by felonious acts and that 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 bill, but the number does give an indication of the frequency of firefighter deaths that are work related.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill eliminates the fees for postgraduate study at state institutions for the children of slain public safety officers and firefighters, as well as eliminates the fees for vocational-technical, undergraduate, and graduate education for spouses.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be a fiscal impact due to the bill's expansion of the educational benefits available for children and spouses of slain public safety officers and firefighters. The amount of the increase, however, is indeterminate as it is unknown how many eligible persons will take advantage of the postgraduate fee waivers. In FY 2000-01, \$9,939, educational fees were waived pursuant to current law for 5 undergraduate students.

For resident students, the average cost per year of full-time graduate study is approximately \$3,927 and the cost of full-time professional school study is approximately \$9,249. For non-resident students, the average cost per year of full-time graduate study is approximately \$13,700 and the cost of full-time professional school study is approximately \$25,392.¹⁶ If one or more of the 5 students received graduate and/or professional school fee waivers, the cost of the bill could range from \$3,927 (assuming one resident student attends graduate school) to \$126,960, (assuming 5 non-resident students attend professional school). Further, more than 5 students may take advantage of the benefits provided by this bill, given that the educational benefits are expanded to include spouses.

Additionally, the state could realize a fiscal impact from the bill's increase in the death benefit payment for slain officers and firefighters. *See* "Municipal/County Mandates Restrictions," *supra*.

¹⁶ The approximate average cost per year with local fees of professional studies for resident students for 2001-2002: (a) law school fees are \$4,416; (b) medical school fees are \$12,375; (c) dental school fees are \$10,901; and (d) veterinary school fees are \$9,304. The approximate average cost per year with local fees of professional studies for non-resident students for 2001-2002: (a) law school fees are \$14,594; (b) medical school fees are \$33,295; (c) dental school fees are \$29,092; and (d) veterinary school fees are \$24,585.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Committee Substitute for Senate Bill 176, which has been passed by the Senate and is currently in House Messages, contains provisions that conflict with this bill.¹⁷ Under CS/SB 176, the educational benefits for a child of a slain public safety officer or firefighter are expanded by waiving the child's fees for graduate and postbaccalaureate professional studies at state institutions. Further, CS/SB 176 limits these graduate and postbaccalaureate benefits to children who are Florida residents and are under the age of 29 years. Like CS/SB 176, this bill would expand the educational benefits to postgraduate education for children; however, this bill limits the child's graduate benefits until the child's 25th birthday; it also provides undergraduate and graduate benefits to spouses; and it does not have a Florida resident requirement.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

¹⁷ This bill and CS/SB 176 both amend the same sections of law.