

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.)

Prepared By: Commerce and Consumer Services Committee

BILL: SB 72

SPONSOR: Senator Geller

SUBJECT: Military Personnel on Duty

DATE: January 11, 2005

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------|----------------|-----------|-----------|
| 1. | Gillespie | Cooper | CM | Favorable |
| 2. | _____ | _____ | CA | _____ |
| 3. | _____ | _____ | TA | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

Senate Bill 72 directs the Agency for Workforce Innovation to establish the Citizen Soldier Matching Grant Program. The program would provide for matching grants to private sector employers in this state which pay wages to their employees who are Florida residents serving on federal active duty in the United States Armed Forces Reserves or the Florida National Guard. The bill limits each grant to one-half of the difference between:

- The amount of monthly wages paid by the employer to the employee at the level paid before the employee was called to federal active duty; and
- The amount of the employee's active duty base pay and benefit package.

The bill further limits each grant to one-half of the monthly wages paid by the employer to the employee for the actual period of federal active duty, which in effect requires the employer, at a minimum, to match the state grant dollar-for-dollar. The bill does not provide an appropriation for the grants but specifies that the program shall be funded by legislative appropriations.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Florida's Military Leave and Compensation Laws

Under current law, each public official of the state, county, municipality, or political subdivision of the state, including a district school or community college officer, who is a service member in the National Guard or a reserve component of the United States Armed Forces must be granted a

leave of absence from his or her respective office and duties to perform active military service. The first 30 days of the leave of absence are required to be with full pay (s. 115.09, F.S.).

In addition, state agencies, counties, municipalities, and political subdivisions may supplement the military pay of an official or employee who is a reservist called to active military service after the first 30 days in an amount necessary to bring the official's or employee's total salary, inclusive of his or her base military pay, to the level earned at the time he or she was called to active military duty (s. 115.14, F.S.). The employing authority must also continue to provide all health insurance and other existing benefits to the official or employee, as required by the federal Uniformed Services Employment and Reemployment Rights Act¹ (s. 115.14, F.S.).

On September 25, 2001, the Governor and Cabinet adopted a resolution directing all state agencies to fully implement ss. 115.09 and 115.14, F.S., for all state employees called to active duty. In presenting the resolution to the Cabinet, the Governor stated that "the [r]esolution encourages private employers, to the extent that they're able, to take similar actions. And we will also send out a notice to all local governments for their – for their action as well."²

Neither federal nor state law requires private sector employers to pay wages to employees absent from work while serving on active military duty.

Federal Uniformed Services Employment and Reemployment Rights Act

The federal Uniformed Services Employment and Reemployment Rights Act³ specifies that, while an individual is absent from work while performing military service, he or she is deemed to be on furlough or leave of absence. The federal act generally provides for returning service members to be reemployed in the job that they would have attained had they not been absent for military service (commonly cited as the "escalator" principle) with the same seniority, status, and pay, as well as other rights and benefits determined by seniority (e.g., pension benefits). With certain exceptions, the federal act limits these reemployment rights to service members whose cumulative time absent from work for military duty does not exceed 5 years. The federal act also requires that reasonable efforts (e.g., training or retraining) be made to enable returning service members to refresh or upgrade their skills to help them qualify for reemployment.

Federal Servicemembers Civil Relief Act

In December 2003, the President of the United States approved the federal Servicemembers Civil Relief Act,⁴ which provides protections for active duty military service members, including members of the Armed Forces Reserves and the National Guard. Several of these new protections include:

¹ See *USERRA*, *infra* note 3.

² Governor and Cabinet, *Cabinet Meeting Transcript 5-6* (Sept. 25, 2001), available at <http://myflorida.com/myflorida/cabinet/agenda01/0925/trans.html> (last visited Jan. 11, 2005).

³ *Uniformed Services Employment and Reemployment Rights Act of 1994*, Pub. L. No. 103-353 (1994) [hereinafter *USERRA*] (codified at 38 U.S.C. ss. 4301-4333).

⁴ Public L. No. 108-189, 117 Stat. 2835 (Dec. 19, 2003).

- Allowing an active duty service member moving due to permanent-change-of-station orders or deployment orders of at least 90 days to terminate real property leases.
- Requiring court action before a service member's family may be evicted from the pre-service residence occupied by the service member, for which the monthly rent does not exceed \$2,400 for the year 2003, and providing a formula to calculate the rent ceiling for subsequent years.
- Allowing a service member and his or her dependents to cancel pre-service automobile leases if the service member receives orders to active duty for a period of 180 days or more.
- Capping interest rates on pre-service loans (e.g., credit card balances) to 6 percent per year and forgiving interest in excess of the 6-percent cap.
- Requiring a court or administrative hearing to grant at least a 90-day stay, if requested by the service member.

III. Effect of Proposed Changes:

The bill directs the Agency for Workforce Innovation to establish the Citizen Soldier Matching Grant Program. Under the program, the agency would provide matching grants to private sector employers in this state which pay wages to their employees who are Florida residents serving on federal active duty in the United States Armed Forces Reserves or the Florida National Guard.

The bill limits each grant to one-half of the difference between:

- The amount of monthly wages paid by the employer to the employee at the level paid before the employee was called to federal active duty; and
- The amount of the employee's active duty base pay and benefit package.

The bill further limits each grant to one-half of the monthly wages paid by the employer to the employee for the actual period of federal active duty, which in effect requires the employer, at a minimum, to match the state grant dollar-for-dollar.

The bill requires that the matching grants be awarded as reimbursement for wages paid to the employee.

The bill does not provide an appropriation for the matching grants but specifies that the program shall be funded by legislative appropriations.

The bill requires the Agency for Workforce Innovation to develop a plan to administer the application and payment procedures for the program. The plan is subject to the notice, review, and objection procedures in s. 216.177, F.S., which require the agency to submit the plan to the chair and vice chair of the Legislative Budget Commission (s. 216.177(2)(a), F.S.). Within 14 days after the plan is submitted, the chair and vice chair of the Legislative Budget Commission or the President of the Senate and the Speaker of the House of Representatives may object to the plan (s. 216.177(2)(b), F.S.). If the objections are received, the Agency for Workforce Innovation must void the plan until the Legislative Budget Commission or the Legislature addresses the issue.

The bill provides an effective date of July 1, 2005. Although the bill does not specify that the program established by the Agency for Workforce Innovation must apply retroactively, the bill authorizes grants to be paid for monthly wages paid for actual federal active duty served on or after January 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An employer that pays wages to covered employees serving on active federal duty in the United States Armed Forces Reserves or the Florida National Guard would receive matching grants per employee from the Agency for Workforce Innovation for up to one-half of these wages paid to supplement the employees' active duty base pay and benefit packages.

C. Government Sector Impact:

The Agency for Workforce Innovation estimates that the bill would require a maximum of \$44.8 million to fund and administer the matching grant program. This estimate was calculated and based on the following assumptions:

- **Number of personnel.**—The estimate cites that the Florida Department of Military Affairs estimates that more than 7,500 Florida personnel are currently mobilized on federal active duty from the United States Armed Forces Reserves and the Florida National Guard.
- **Employer participation.**—The estimate assumes that employers will seek matching grants for 100 percent of the eligible employees.
- **Diversity of civilian employment.**—The civilian employment of Florida personnel from the United States Armed Forces Reserves and the Florida National Guard is as diverse as the overall occupational employment of the state.

- **Average state wage.**—The estimate cites that the annual state wage is approximately \$33,553, according to the Agency for Workforce Innovation’s Labor Market Information section.
- **Less average military wage.**—The estimate deducts the average military wage (estimated as \$22,698 for 2004 according to military pay charts), which results in a \$10,855 differential per employee per year.
- **Reduce differential by one-half.**—Because the bill limits the matching grants to one-half of this differential, the estimate divides the \$10,855 differential by 2, which equals \$5,428 per employee per year.
- **Multiply by number of personnel.**—The estimate multiplies this \$5,428 quotient by the estimated total number (7,500) of Florida personnel currently mobilized on federal active duty from the United States Armed Forces Reserves and the Florida National Guard, which results in an estimate of \$40.7 million to fund the matching grants during fiscal year 2005-2006.
- **Administrative costs.**—The estimate also included the Agency for Workforce Innovation’s estimated administrative cost of \$4.1 million, which equals 10 percent of the total estimated amount needed to fund the matching grants.

The Agency for Workforce Innovation cites that this estimate likely exceeds the actual costs of the program because the estimate assumes that employers will seek matching grants for every eligible employee. In addition, the agency cites that the estimate is significantly determined by the number of Florida personnel who are currently mobilized on federal active duty from the United States Armed Forces Reserves and the Florida National Guard, which is subject to considerable fluctuation based on changes in national defense policy and military deployments.

The agency’s estimate is based, however, on 1 year of matching grants. Although the bill does not specify that the matching grant program must apply retroactively, the bill authorizes grants to be paid for monthly wages paid for actual federal active duty served on or after January 1, 2005. If the Agency for Workforce Innovation authorizes matching grants for federal active duty served between January 1, 2005, and the effective date of the bill, July 1, 2005, additional funding may be required to support 18 months of matching grants during fiscal year 2005-2006.

The bill does not provide an appropriation for these matching grants but specifies that the program shall be funded by legislative appropriations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is linked to SB 74, which creates the Citizen Soldier Matching Grant Trust Fund, into which monies appropriated for the matching grant program are to be credited.

VIII. Summary of Amendments:

None.

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