

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 Rules Committee

BILL: SB 704

INTRODUCER: Senator Sachs

SUBJECT: Special Observances/Purple Heart Day

DATE: April 12, 2011

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Yune | Carter | MS | Favorable |
| 2. | Mason | Roberts | GO | Favorable |
| 3. | Mason | Phelps | RC | Pre-meeting |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill provides that the Governor may annually designate August 7 of each year as “Purple Heart Day” to commemorate those who have been wounded or killed while serving in any branch of the United States Armed Forces.

This bill creates section 683.146 of the Florida Statutes.

II. Present Situation:

Legal Holidays and Special Observance Days

Chapter 683, F.S., establishes legal holidays and special observance days. Legal holidays and special observance days may apply throughout the state or they may be limited to particular counties. For example, “Gasparilla Day”¹ is a legal holiday observed only in Hillsborough County while “Bill of Rights Day,”² if issued by the Governor, is observed throughout the state. Also, designation of a day as a legal holiday does not necessarily make that day a paid holiday for public employees.³ Another provision of statute, s. 110.117, F.S., establishes which legal holidays are paid holidays for public employees.

¹ Section 683.08, F.S.

² Section 683.25, F.S.

³ “Legal holidays” are not necessarily the same as “paid holidays” for governmental employees. Section 110.117(1), F.S., provides the following holidays as paid holidays for all state branches and agencies: New Year’s Day; Martin Luther King Birthday; Memorial Day; Independence Day; Labor Day; Veteran’s Day; Thanksgiving Day and Friday after Thanksgiving; and Christmas Day.

The declaration of a specific day as a legal holiday may impact state contracts. Section 683.02, F.S., provides that whenever reference is made to “legal holidays” in contracts to be performed by the state, the term includes the holidays designated in s. 683.01, F.S., and such others as may be designated by law. Designating a day as a legal holiday may also affect legal notice requirements and result in the need to count additional days to calculate legal filing dates or periods. For example, Florida Rules of Civil Procedure 1.090(a) provides:

In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a *Saturday, Sunday, or legal holiday*, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than 7 days, *intermediate Saturdays, Sundays, and legal holidays shall be excluded* in the computation [emphasis added].

The legal holidays established in s. 683.01(1), F.S., are:

- (a) Sunday, the first day of each week.⁴
- (b) New Year’s Day, January 1.
- (c) Birthday of Martin Luther King, Jr., January 15.
- (d) Birthday of Robert E. Lee, January 19.
- (e) Lincoln’s Birthday, February 12.
- (f) Susan B. Anthony’s Birthday, February 15.
- (g) Washington’s Birthday, the third Monday in February.
- (h) Good Friday.
- (i) Pascua Florida Day, April 2.⁵
- (j) Confederate Memorial Day, April 26.
- (k) Memorial Day, the last Monday in May.
- (l) Birthday of Jefferson Davis, June 3.
- (m) Flag Day, June 14.
- (n) Independence Day, July 4.
- (o) Labor Day, the first Monday in September.
- (p) Columbus Day and Farmers’ Day, the second Monday in October.
- (q) Veterans’ Day, November 11.
- (r) General Election Day.
- (s) Thanksgiving Day, the fourth Thursday in November.
- (t) Christmas Day, December 25.⁶

⁴ Sunday as a holiday has its origins in the Christian Sabbath or day of rest.

⁵ “Pascua Florida” is a Spanish term that means *flowery festival* or *feast of flowers*. It usually refers to the Easter season, though, “Pascua” can, depending on the context, refer to the Jewish Passover, Easter, Christmas, Epiphany or Pentecost. See, <http://www.answers.com/topic/pascua-florida>. April 2 each year is designated as “Florida State Day” and is known as “Pascua Florida Day.” Juan Ponce de León called the land he encountered in 1513 “Pascua florida.” The holiday is to be observed in the same manner as a “patriotic occasion.”

⁶ Public designation of Christmas Day as a holiday has been determined to be constitutionally acceptable as “. . . the Christmas holiday in our national culture contains both secular and sectarian elements.” See, *Silver Rose Entertainment, Inc.*,

(u) Shrove Tuesday, sometimes also known as “Mardi Gras,” in counties where carnival associations are organized for the purpose of celebrating the same.⁷

In addition to legal holidays, Chapter 683 recognizes the following special observances: Arbor Day; Pan-American Day; Pascua Florida Day; Gasparilla Day; DeSoto Day; Grandparents’ and Family Caregivers’ Day; Law Enforcement Appreciation Month; Law Enforcement Memorial Day; Parade Day; State Observance of National Day of Mourning; Patriots’ Day; I Am An American Day; Teachers’ Day; Retired Teachers’ Day; Parents’ and Children’s Day; Save the Florida Panther Day; Rosh Hashanah, Yom Kippur, and Good Friday; Florida Jewish History Month; Juneteenth Day; Law Day and Law Week; Florida Missing Children’s Day; Florida Alzheimer’s Disease Day; Bill of Rights Day; Ronald Reagan Day; Homeless Persons’ Memorial Day; Three Kings Day; Child Welfare Professionals Recognition Day; and Ronshay Dugan’s Act.⁸

The Purple Heart

The Purple Heart was established by General George Washington at Newburgh, New York, on August 7, 1782, during the Revolutionary War.⁹ It was re-established by the President of the United States per War Department General Orders 3, 1932, and is currently awarded pursuant to Executive Order 11016, April 25, 1962, Executive Order 12464, February 23, 1984 and Public Law 98-525, October 19, 1984.¹⁰

Subsection (a) or paragraph 2-8, Army Regulation 600-8-22 provides that the Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force or any civilian national of the US who, while serving under competent authority in any capacity with one of the United States Armed Services after April 5, 1917, has been wounded or killed, or who has died or may hereafter die after being wounded:¹¹

- (1) In any action against an enemy of the US.
- (2) In any action with an opposing armed force of a foreign country in which the Armed Forces of the US are or have been engaged.

v. *Clay County*, 646 So.2d 246 at 253 (1st DCA 1994), citing *Lynch v. Donnelly*, 465 U.S. 668, 104 S. Ct. 1355, 79 L.Ed.2d (1984).

⁷ The day before the beginning of Lent is known as *Shrove Tuesday*. To shrove someone, in old-fashioned English (he shrives, he shrove, he has shriven *or* he shrives, he shrived, he has shrived), is to hear his acknowledgement of his sins, to assure him of God's forgiveness, and to give him appropriate spiritual advice. Shrove Tuesday is also called *Fat Tuesday* (in French, Mardi=Tuesday; gras=fat), because on that day fats normally used in cooking are used up because they will not be used during Lent. The day (or sometimes a longer period immediately preceding Lent) is also called *Carnival*, which means "farewell to meat." "Carni" as in carnivorous, and "vale" as in valediction, valedictorian, etc. One last hamburger before the Lenten fast begins. See, <http://elvis.rowan.edu/~kilroy/JEK/LITCAL/ShroveTuesday.html>

⁸ 683, F.S.

⁹ Paragraph 2-8, Army Regulation 600-8-22 (Military Awards)

¹⁰ *Id.*

¹¹ Subsection (b) of Paragraph 2-8, Army Regulation 600-8-22 states that the Purple Heart Award is not awarded based on a recommendation but rather, the individual is entitled to it upon meeting the specific criteria that is provided throughout paragraphs 2-8. Subsection (b) (1)-(6) provide definitions and examples of what qualifies and what does not qualify as a “wound”. Also, subsections (c)-(h) in paragraphs 2-8 provide other stipulations of who may receive the Purple Heart Award.

- (3) While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the US is not a belligerent party.
- (4) As a result of an act of any such enemy of opposing armed forces.
- (5) As the result of an act of any hostile foreign force.
- (6) After March 28, 1973, as a result of an international terrorist attack against the UIS or a foreign nation friendly to the US, recognized as such an attack by the Secretary of the Army, or jointly by the Secretaries of the separate armed services concerned if person from more than one service are wounded in the attack.
- (7) After March 28, 1972, as a result of military operations while serving outside the territory of the US as part of the peacekeeping force.

Presently, there are several states that honor and celebrate the Purple Heart Award by designating a specific day of the year as Purple Heart Day. For example, Wisconsin has designated August 7th of each year as Purple Heart Day.¹² Minnesota and Nevada have also designated a specific day as Purple Heart Day.

III. Effect of Proposed Changes:

This bill creates s. 683.146, F.S., designating August 7 of each year as “Purple Heart Day.” The bill specifies that the Governor may annually issue a proclamation designating August 7 as “Purple Heart Day.” The bill also encourages public officials, schools, private organizations, and all residents of the state to honor those who have been wounded or killed while serving in the United States Armed Services by commemorating “Purple Heart Day.”

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹² Wisconsin State Statutes s. 14.16 (11)

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill does not require that local governments issue a proclamation. Issuance of the proclamation by the Governor may give rise to some costs, though it is likely *de minimus*.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.