

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 35 Out-of-State Fee Waivers for Veterans and Dependents  
**SPONSOR(S):** Higher Education & Workforce Subcommittee, Stark and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 7028

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	7 Y, 0 N, As CS	Banner	Sherry
2) Veteran & Military Affairs Subcommittee	10 Y, 0 N	Thompson	Kiner
3) Education Appropriations Subcommittee			
4) Education Committee			

### SUMMARY ANALYSIS

The Congressman C.W. Bill Young Veteran Tuition Waiver Program (Florida G.I. Bill) provides for out-of-state fee waivers for honorably discharged veterans of the U.S Armed Forces, U.S. Reserve Forces or the National Guard that attend a state university, state college, career center, or charter technical career center.

The Veterans Access, Choice and Accountability Act of 2014 (VA Reform Bill) signed into law in August 2014, requires public postsecondary institutions to provide in-state tuition rates to veterans and eligible dependents as a condition of continuing to receive G.I. Bill educational benefits. The legislation applies to all individuals qualifying under Post-9/11 G.I. Bill or the Montgomery G.I. Bill-Active Duty.

This bill expands the Congressman C.W. Bill Young Veteran Tuition Waiver Program to include members of the commissioned corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA), thereby providing out-of-state fee waivers to all veterans of the U.S. Uniformed Services.

The bill also implements the VA Reform Bill by providing out-of-state fee waivers to individuals residing in the state and receiving U.S. Department of Veterans Affairs education benefits under chapters 30, 33 or 35. These chapters include the G.I. Bill, and the Survivors' and Dependents', Reserve, and Veterans Educational Assistance Programs.

The bill allows specified veterans and their family members to pay in-state tuition rates at state universities, Florida College System institutions, career centers, and charter technical career centers, which will result in a significant savings to these students. The institutions will likely experience a corresponding negative fiscal impact. However, the impact is indeterminate, because it is unknown how many, if any, of these individuals would enroll without an out-of-state fee waiver. See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT.

This bill is effective upon becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

More than 1.5 million veterans live in Florida, including more than 211,000 veterans of the Afghanistan and Iraq wars, and roughly 490,000 Vietnam-era veterans.<sup>1</sup> Additionally, there are approximately 190,000 military retirees who call Florida home.<sup>2</sup>

Florida has a large military population with more than 61,000 active duty military personnel.<sup>3</sup> Another 25,000 civilian personnel are directly associated with the military presence in Florida.<sup>4</sup>

The Florida National Guard (Guard) has nearly 12,000 members, with 9,900 Guard personnel and 2,000 Air National Guard personnel.<sup>5</sup> According to the Department of Military Affairs (DMA), since September 11, 2001, more than 16,000 Guard members have been deployed to support our nation's national security interests; of this total, roughly 5,760 remain active with the Guard.

#### **Tuition and Out-of-State Fees and Waivers/Exemptions**

Florida law defines "tuition" as "the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state".<sup>6</sup> Students who are not classified as "residents for tuition purposes"<sup>7</sup> are required to pay the full cost of instruction at a public postsecondary institution. This additional charge is known as the "out-of-state fee".<sup>8</sup> Institutions are authorized to provide exemptions and/or waivers<sup>9</sup> of the out-of-state fee to students who meet specified criteria.

Chapter 2014-1, L.O.F., also known as the Florida G.I Bill, creates an out-of-state tuition fee waiver for honorably discharged veterans who reside in the state while enrolled at a state college, state university, career center operated by a school district under s. 1001.44, F.S., or a charter technical center.<sup>10</sup> Prior to the bill's passage, non-resident students, including non-resident student veterans, were required to be classified as residents for tuition purposes in order to pay in-state tuition rates.<sup>11</sup> Without a specifically authorized fee exemption or waiver, non-resident students had to pay out-of-state fees in addition to basic tuition rates.

Specifically, the Florida G.I. Bill creates the "Congressman C.W. Bill Young Veteran Tuition Waiver Program"<sup>12</sup>, directing the state universities, Florida College System institutions, career centers, and technical centers to waive out-of-state fees for honorably discharged veterans of the U.S. Armed Forces, U.S Reserve Forces, or the National Guard. In addition to being an honorably discharged veteran, the law requires the veteran student to physically reside in the state in order to receive the fee waiver.

#### **U.S. Department of Veterans Affairs (USDVA) Education Benefit Programs**

---

<sup>1</sup> DVA, Annual Report Fiscal Year 2012-2013, Facts and Figures.

<sup>2</sup> Id.

<sup>3</sup> Florida Defense Factbook, EFI and Haas Center, January 2013, available at: <http://www.enterpriseflorida.com/the-florida-defense-support-task-force/resources/> (last viewed February 10, 2015).

<sup>4</sup> Id.

<sup>5</sup> Florida National Guard website, available at: [http://www.floridaguard.army.mil/?page\\_id=7](http://www.floridaguard.army.mil/?page_id=7) (last viewed February 10, 2015).

<sup>6</sup> Section 1009.01(1), F.S.

<sup>7</sup> Section 1009.21(1)(g), F.S.

<sup>8</sup> Section 1009.01(2), F.S.

<sup>9</sup> Sections 1009.25 and 1009.26, F.S.

<sup>10</sup> Ch. 2014-1, Laws of Fla.

<sup>11</sup> Section 1009.21, F.S.

<sup>12</sup> Section 1009.26(13), F.S.

The USDVA offers several financial assistance programs for veterans and dependents pursuing postsecondary education.

### Post-9/11 GI Bill

The Post-9/11 GI Bill<sup>13</sup> is the newest education benefit program and is offered to individuals with at least 90 days of aggregate active duty service on or after September 11, 2001, or individuals discharged with a service-connected disability after 30 continuous days of active duty service. This program provides the cost of tuition and fees, up to that of the most expensive public in-state undergraduate rate for up to 36 months. Benefits generally expire 15 years after the date of the last discharge or release from active duty service. Funds are paid directly to the institution on the student's behalf and are prorated according to the student's benefit level. The benefit amounts under this program are as follows:

Post-9/11 GI Bill Service Requirements <sup>14</sup> (aggregate active duty service after Sept. 10, 2001)	Percentage of Maximum Benefit Payable
At least 36 months	100
At least 30 continuous days on active duty (must be discharged due to service-connected disability)	100
At least 30 months, but less than 36 months	90
At least 24 months, but less than 30 months	80
At least 18 months, but less than 24 months	70
At least 12 months, but less than 18 months	60
At least 6 months, but less than 12 months	50
At least 90 days, but less than 6 months	40

Under the Post-9/11 GI Bill, servicemembers may transfer any or all unused benefits to a spouse or child provided the servicemember is still in the military, has at least six years of service and commits to an additional four years of service. Spouses may begin to use benefits immediately and have up to 15 years from the last separation date. Children may begin to use benefits after the servicemember completes 10 years of military service and are eligible to use benefits until age 26.<sup>15</sup>

The Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship)<sup>16</sup> entitles surviving spouses<sup>17</sup> and children of servicemembers who died in the line of duty after September 10, 2001 to 36 months of the full, 100% level, of the Post-9/11 GI Bill Benefits, including tuition and fees, a monthly housing allowance, and a book stipend. Spouses may use this benefit until such time as they remarry and children are eligible until age 33.

### Montgomery GI Bill

The Montgomery GI Bill – Active Duty (MGIB-AD)<sup>18</sup> is available to veterans who began active duty service for the first time after June 30, 1985, had their pay reduced \$100 a month for 12 months, and received an honorable discharge. These benefits are paid directly to the veteran with monthly benefit amounts varying based on length of service and type of educational training being pursued. The current monthly benefit for a veteran who completed an enlistment of 3 years or more and is pursuing a full time college degree or certificate is \$1,717.<sup>19</sup> The MGIB-AD provides up to 36 months of benefits and must be used within 10 years of the last discharge date.

<sup>13</sup> 38 U.S.C. §§3301-3325.

<sup>14</sup> USDVA Pamphlet 22-09-01 RE: Post 9/11 GI Bill. May 2012. Available at: [http://www.benefits.va.gov/gibill/docs/pamphlets/ch33\\_pamphlet.pdf](http://www.benefits.va.gov/gibill/docs/pamphlets/ch33_pamphlet.pdf) (last viewed March 6, 2015).

<sup>15</sup> 38 U.S.C. § 3319.

<sup>16</sup> 38 U.S.C. § 3311(b)(9).

<sup>17</sup> Public Law 113-146, Title VII, Section 701, The Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, H.R. 3230, 113th Cong. (Aug. 7, 2014), expanded eligibility for the Fry Scholarship to surviving spouses effective January 1, 2015.

<sup>18</sup> 38 U.S.C. §§3001-3035.

<sup>19</sup> USDVA Website. MGIB-AD Rates Effective October 1, 2014. Available at: [http://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch30/ch30rates100114.asp](http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch30/ch30rates100114.asp) (last viewed March 6, 2015).

The Montgomery GI Bill – Selected Reserve (MGIB-SR)<sup>20</sup> is available to members actively participating in the Selected Reserve.<sup>21</sup> To be eligible, reservists must be actively drilling and agree to a 6-year commitment to the reserves. Benefits are paid directly to the reservist and may be used for up to 36 months. The current monthly benefit for a reservist enrolled in a full time degree or certificate program is \$367.<sup>22</sup>

Survivors’ and Dependents’ Educational Assistance

The Survivors’ and Dependents’ Educational Assistance program (DEA)<sup>23</sup> is the benefit program offered to spouses and children of a veteran who has a service-connected permanent and total disability, died as a result of service, or is listed as Missing in Action or Prisoner of War.<sup>24</sup> Spouses are eligible for 10 years from the date USDVA determines eligibility (up to 20 years in certain circumstances) and children are eligible until age 26, both for a maximum of 45 months. The current monthly rate payable to the recipient enrolled in a full time degree or certificate program is \$1,018.<sup>25</sup>

Reserve Educational Assistance Program

The Reserve Educational Assistance Program (REAP)<sup>26</sup> provides educational assistance to members and reservists of the National Guard who have been called to active duty in response to a war, national emergency, or contingency operation as declared by the President or Congress on or after September 11, 2001 for a minimum of 90 consecutive days.<sup>27</sup> Program beneficiaries are eligible for up to 36 months of benefits at a proportionate rate of the MGIB-AD 3-year enlistment rate. The current monthly rate for a member or reservist with at least 90 consecutive days of service, but less than one year is \$686.60.<sup>28</sup>

Veterans Educational Assistance Program

The Veterans Educational Assistance Program (VEAP)<sup>29</sup> provides educational benefits for veterans entering service for the first time between December 31, 1976 and July 1, 1985. Enrollment for this program closed June 30, 1985, however a small number of veterans are still using benefits at higher education institutions in Florida.

The chart below shows the number of Florida beneficiaries for each USDVA education program for fiscal years 2011-2013.<sup>30</sup>

Fiscal Year	Total Beneficiaries	USDVA Educational Assistance Program					
		Post-9/11	MGIB-AD	MGIB-SR	DEA	VEAP	REAP
2011	68,133	42,607	14,628	3,020	6,810	7	1,081
2012	62,911	42,607	9,454	2,613	6,513	5	818
2013	87,140	63,947	6,530	2,575	6,770	2	615

**The Veterans Access, Choice and Accountability Act of 2014**

<sup>20</sup> 10 U.S.C. §§16131-16136.

<sup>21</sup> Selected Reserve components include the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, Coast Guard Reserve, Army National Guard, and Air Force National Guard.

<sup>22</sup> USDVA Website. MGIB-SR Rates. Effective October 1, 2014. Available at: [http://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch1606/ch1606rates100114.asp](http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch1606/ch1606rates100114.asp) (last viewed March 6, 2015).

<sup>23</sup> 38 U.S.C. §§3500-3566.

<sup>24</sup> 38 U.S.C. §3501(a)(1).

<sup>25</sup> USDVA Website. REAP Rates Effective October 1, 2014. Available at: [http://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch35/ch35rates100114.asp](http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch35/ch35rates100114.asp) (last viewed March 6, 2015).

<sup>26</sup> 10 U.S.C. §§16161-16166.

<sup>27</sup> 10 U.S.C. §16163(a).

<sup>28</sup> USDVA Website. REAP Rates Effective October 1, 2014. Available at: [http://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch1607/ch1607rates100114.asp](http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch1607/ch1607rates100114.asp) (last viewed March 6, 2015).

<sup>29</sup> 38 U.S.C. §§3201-3243.

<sup>30</sup> National Center for Veterans Analysis and Statistics. Utilization Report on Department of Veterans Affairs Education Program Beneficiaries by Geography: FY 2000 to FY 2013. Available at: <http://www.va.gov/vetdata/Utilization.asp> (last viewed March 6, 2015).

The Veterans Access, Choice and Accountability Act of 2014 (VA Reform Bill) was signed into law in August 2014.<sup>31</sup> The VA Reform Bill requires public institutions of higher learning to provide in-state tuition rates to veterans and eligible dependents in order for the institution to remain eligible to receive G.I. Bill education payments. Specifically, the bill requires the USDVA Secretary to disapprove a course of education at a public institution of higher learning if that institution does not offer a covered individual tuition at the in-state rate. Any veteran who has served at least 90 days of active service must be allowed to pay resident tuition rates, in any state, within three years of leaving the military. The law also covers spouses and dependent children of veterans meeting certain criteria. Effective July 1, 2015, the federal law will apply to any public college or university in order for the institution to remain eligible to receive the education payments from the Montgomery G.I. Bill or Post-9/11 G.I. Bill programs.

The requirements of this legislation apply only to students qualifying under the Post-9/11 GI Bill or the Montgomery GI Bill-AD. Institutions are not required to change policies for individuals using any other USDVA educational benefits. Beneficiaries qualifying under this act include (1) veterans who enroll in an institution within the state s/he resides within 3 years of discharge from a period of active duty service of 90 days or more, (2) spouses/children using transferred benefits to attend an institution within the state s/he resides within 3 years of the transferor's discharge from a period of active duty service of 90 days or more, or (3) spouses/children using benefits under the Fry Scholarship who enroll in an institution of higher education within the state s/he resides within 3 years of the servicemember's death in the line of duty following a period of active duty service of 90 days or more. Provided a student remains continuously enrolled and continues to use either Post-9/11 GI Bill or Montgomery GI Bill-AD benefits, the beneficiary will remain eligible to continue receiving the in-state tuition rate beyond the 3 year date of discharge.

### **Effect of Proposed Changes**

Currently, the Congressman C.W. Bill Young Veteran Tuition Waiver Program authorizes out-of-state fee waivers for honorably discharged veterans of the U.S. Armed Forces, U.S. Reserve Forces, and the National Guard. The bill expands the waivers to include veterans of the U.S. Uniformed Services, effectively adding veterans of the commissioned corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA).<sup>32</sup> This fee waiver will be granted regardless of whether the person is using G.I. Bill education benefits.

The bill also creates an additional out-of-state fee waiver for those individuals residing in the state and receiving USDVA education benefits under Chapters 30, 33 or 35. These chapters include beneficiaries under the Post-9/11 G.I. Bill, Montgomery G.I. Bill, Survivor's and Dependents' Educational Assistance Program, Reserve Educational Assistance Program, and the Veterans Educational Assistance Program. Individuals using benefits transferred from an eligible servicemember are also eligible for the out-of-state fee waiver.

## **B. SECTION DIRECTORY:**

Section 1: Amends s. 1009.26, F.S., to direct state universities, Florida College System institutions, and Florida career centers to waive certain fees for veterans.

Section 2: Provides an effective date of upon becoming law.

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

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

---

<sup>31</sup> The Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, Pub.L. 113-146, H.R. 3230, 113<sup>th</sup> Cong. (Aug. 7, 2014).

<sup>32</sup> 10 U.S.C. § 101 (2013), defines the term "uniformed services" as the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

1. Revenues:

None.

2. Expenditures:

Generally, it may be difficult for institutions to identify the number of students who will meet the criteria outlined in the bill and opt to take advantage of the expanded benefits; therefore, the full potential fiscal impact is indeterminate at this time.

**State University System**

The Board of Governors, based on Fall 2013 enrollment data of veteran dependents using G.I. Bill benefits and enrolling in 30 credit hours per year, estimates an annual unrealized tuition amount for the State University System of \$2,695,543.<sup>33</sup>

According to the Board of Governors, the fiscal impact to the State University System is calculated by using the 2013-2014 FTE enrollment data for active duty students and eligible dependent students because 2014-2015 data are not yet available. Additionally, the 2014-2015 Tuition and Fee Survey is used to calculate the system average of lost revenues resulting from the exclusion of non-resident fees paid by these students.<sup>34</sup>

Of the 136 FTE non-resident students listed under active duty, reservist, and eligible dependents, 88 FTE are undergraduate students and 53 FTE are graduate students. The estimated fiscal impact of waiving the non-resident fee for undergraduate and graduate students is as follows:

**Active Duty and Reservists<sup>35</sup>**

Undergraduate Students (4 FTE):

2014-2015 System Non-Resident Fee Revenue = \$19,588 \* 4 FTE = \$78,352

Graduate Students (23 FTE):

2014-2015 System Non-Resident Fee Revenue = \$19,966 \* 23 FTE = \$459,218

**Eligible Dependents and Survivors<sup>36</sup>**

Undergraduate Students (84 FTE):

2014-2015 System Non-Resident Fee Revenue = \$19,588 \* 84 FTE = \$1,645,392

Graduate Students (25 FTE):

2014-2015 System Non-Resident Fee Revenue = \$19,966 \* 25 FTE = \$499,150

As a result, an estimated \$2.7 M in tuition revenue would be foregone by the system if the non-resident fee is waived for 136 FTE active duty and reservists students and eligible dependents and survivors at the undergraduate and graduate levels.<sup>37</sup>

**Florida College System**

According to the Department of Education, the fiscal impact of HB 35 is indeterminate at this time.

---

<sup>33</sup> E-mail correspondence with Board of Governors of the State University System of Florida staff. February 23, 2015. On file with Higher Education and Workforce Subcommittee.

<sup>34</sup> State University System of Florida Board of Governor's 2015 Legislative Bill Analysis for CS/HB 35.

<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> Id.

The number of spouses or dependents the recommended changes would affect is not able to be determined with currently available data. Colleges may see a reduction of out of state fee revenue from current and future enrolled students that would benefit from the proposed changes. However, the loss in revenue may be offset by increased enrollment due to the lower cost of tuition. Along with the possibility of increased enrollment there is also the potential for expenditures, including administrative costs, to increase. However, these expenditures are indeterminate.<sup>38</sup>

For FY 2014-15, the weighted average in-state tuition and fees for lower level programs is \$105.21 per credit hour; the weighted average out-of-state tuition and fees is \$386.82 per credit hour.<sup>39</sup>

It is possible that an existing data element (Florida College System Student Data Base) may need to be revised for the purposes of collecting spouse or dependent status of a veteran receiving benefits.<sup>40</sup>

Updates to existing college databases and websites, or the creation of a new data element, may be necessary to notify and identify eligible students.<sup>41</sup>

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

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

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

The bill would allow specified veterans and individuals using G.I. Bill educational benefits, who would otherwise be unable to establish Florida residency for tuition purposes, to pay in-state tuition rates at state universities, Florida College System institutions, career centers, and charter technical career centers. This would potentially save students a per credit hour average of \$490 at state universities, \$240 at Florida Colleges, and \$7 at career centers.

#### D. FISCAL COMMENTS:

Although the institutions will likely experience a corresponding negative fiscal impact, the impact is indeterminate as it is unknown how many of the veterans and their family members who will be made eligible for the in-state tuition rate, by the bill, would enroll if not eligible for the in-state tuition rate.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

---

<sup>38</sup> Florida Department of Education 2015 Agency Bill Analysis, March 9, 2015.

<sup>39</sup> Id.

<sup>40</sup> Id.

<sup>41</sup> Id.

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

RULE-MAKING AUTHORITY:

The State Board of Education and Board of Governors may need to amend any rules or regulations inconsistent with the provisions of the bill.

B. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS / COMMITTEE SUBSTITUTE CHANGES**

None.