

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 535 Law Enforcement Officer Funeral Service Benefits

**SPONSOR(S):** Constitutional Rights, Rule of Law & Government Operations Subcommittee, Botana and others

**TIED BILLS:**           **IDEN./SIM. BILLS:** CS/SB 364

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee	14 Y, 0 N, As CS	Villa	Miller
2) Appropriations Committee	27 Y, 0 N	Saag	Pridgeon
3) State Affairs Committee			

### SUMMARY ANALYSIS

State employees may be granted administrative leave for a variety of authorized purposes. State and local officers and employees may also be reimbursed by their employing agency for certain travel expenses necessary to achieve a public purpose and subject to limitations established by law.

Current law authorizes state law enforcement agencies to permit their personnel using state vehicles to make incidental stops for personal errands. In addition, current law requires \$1,000 to be paid towards the funeral or burial expenses of a state law enforcement, correctional, or correctional probation officer who is killed in the line of duty under certain circumstances.

The bill authorizes the head of a state law enforcement agency to grant up to eight hours of administrative leave to a certified law enforcement officer in order for the officer to attend a funeral service within Florida of another officer who was killed in the line of duty. The agency head may deny the use of administrative leave for such purpose in order to maintain minimum or adequate staffing requirements. The bill permits the head of a state or local law enforcement agency to authorize travel expenses for a law enforcement officer to attend a funeral service within Florida of another officer who was killed in the line of duty. The bill also permits a state employed law enforcement officer to use the officer's state vehicle to attend a funeral service within Florida of another officer killed in the line of duty if authorized by the agency head.

The bill increases the amount that must be paid towards the funeral or burial expenses of a state law enforcement, correctional, or correctional probation officer who is killed in the line of duty under certain circumstances from \$1,000 to \$10,000.

The bill provides that the act may be cited as the "Respecting their Sacrifice Act."

The bill will likely have an indeterminate, but likely insignificant, negative fiscal impact on state and local government expenditures. See *Fiscal Analysis & Economic Impact Statement*.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### State Personnel Management System

The state's personnel management system provides means to recruit, select, train, develop, and maintain an effective and responsible workforce. The statutes include policies and procedures for employee hiring and advancement, training and career development, position classification, salary administration, benefits, discipline, discharge, employee performance evaluations, affirmative action, and other related activities.<sup>1</sup>

The Department of Management Services (DMS) is charged with establishing and maintaining a classification and compensation program addressing Career Service, Selected Exempt Service, and Senior Management Service positions.<sup>2</sup> The classification of a position determines the types of benefits assigned and its compensation and collective bargaining. A position must be classified as Career Service unless specifically exempted by statute.<sup>3</sup>

Career Service, Selected Exempt Service, and Senior Management Service employees may be granted paid time off in the form of administrative leave for a variety of authorized purposes. The employing agency is responsible for monitoring the use of administrative leave to ensure that its use is within the applicable statutory or rule cap, or does not otherwise exceed a reasonable amount consistent with the circumstances.<sup>4</sup> Generally, state employees may be granted administrative leave for the following purposes:

- Participating in certain international competitions;<sup>5</sup>
- Receiving treatment for a military-service disability;<sup>6</sup>
- Volunteering for certain disasters;<sup>7</sup>
- Participating in certain family activities;<sup>8</sup>
- Attending jury duty;
- When subpoenaed as a witness;
- Taking an examination for military service;
- Attending a family member's funeral;
- When offices are closed under emergency conditions;
- When an employee is under formal investigation;
- Voting in an election;
- Taking certain other examinations;
- Participating in the Governor's Mentoring Initiative.<sup>9</sup>

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<sup>1</sup> S. 110.105(1), F.S. Chapter 110, F.S., establishes the state's personnel management system.

<sup>2</sup> S. 110.2035(1), F.S.

<sup>3</sup> S. 110.205(1), F.S.

<sup>4</sup> Department of Management Services Division of State Human Resource Management Policy Guideline, *Administrative Leave – Prudent Fiscal Management Through Tracking and Monitoring*, available at

[https://www.dms.myflorida.com/content/download/91707/528058/2018-](https://www.dms.myflorida.com/content/download/91707/528058/2018-005_Administrative_Leave_Prudent_Fiscal_Management_Through_Tracking_and_Monitoring_[7-1-20].pdf)

[005\\_Administrative\\_Leave\\_Prudent\\_Fiscal\\_Management\\_Through\\_Tracking\\_and\\_Monitoring\\_\[7-1-20\].pdf](https://www.dms.myflorida.com/content/download/91707/528058/2018-005_Administrative_Leave_Prudent_Fiscal_Management_Through_Tracking_and_Monitoring_[7-1-20].pdf) (last visited Mar. 10, 2023).

<sup>5</sup> S. 110.118, F.S.

<sup>6</sup> S. 110.119, F.S.

<sup>7</sup> S. 110.120, F.S.

<sup>8</sup> See s. 110.1522, F.S., and R. 60L-34.0051, F.A.C.

<sup>9</sup> See R. 60L-34.0071, F.A.C.

## Travel Expenses of Public Employees

The rates, procedures, and limitations placed on the use of taxpayer funds for travel by state and local government employees and officers is standardized by general law.<sup>10</sup> For public officers and employees, all travel must be authorized and approved by the head of the employing agency.<sup>11</sup> The travel request must be accompanied by a signed statement by the traveler's supervisor stating the purpose of the travel and such travel is for official business. The agency head may only pay for travel expenses necessary to achieve the public purpose and subject to limitations established by state law.<sup>12</sup> Per diem costs related to foreign travel may be paid by advancement or reimbursement, at current rates specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)."<sup>13</sup>

Travel is divided into four categories:

- Class A: Continuous travel of 24 hours or more away from official headquarters.<sup>14</sup>
- Class B: Continuous travel of less than 24 hours which involves overnight absence from official headquarters.
- Class C: Travel for short or day trips where the travel is not away from official headquarters overnight.
- Foreign travel: Travel outside the United States.<sup>15</sup>

Reimbursements for travel time are calculated based on the type of travel. Class A travel is calculated based on a calendar day, while Class B travel is calculated based on the travel period.<sup>16</sup> Travelers conducting Class A or Class B travel are reimbursed for each travel day included in the travel period at the rate of one-fourth of the authorized per diem rate for each six-hour period. Class C travelers are not reimbursed per diem, but may receive a subsistence allowance based on the time of travel.<sup>17</sup>

Class C travelers receive a subsistence allowance for \$6 for breakfast, \$11 for lunch, and \$19 for dinner.<sup>18</sup> The per diem and subsistence allowance for Class A and B travelers is the greater of \$80 per day or the sum of actual expenses for lodging at a single-occupancy rate plus the value of the subsistence allowance for Class C travelers for the same number of meals.<sup>19</sup>

Travelers are only reimbursed for the actual expenses of lodging or meals when the lodging or meals are provided at a state institution and may not be reimbursed for any meal or lodging included in a convention or conference registration fee paid for with taxpayer funds.<sup>20</sup>

Public officers and employees may also receive reimbursement for transportation expenses.<sup>21</sup> Travel is reimbursed according to a "usually traveled route," with any costs associated with deviation from that route being borne by the traveler. The agency head or designee must determine the most economical method of travel considering the nature of the business, the most efficient and economical means of travel (including a consideration of time and impact on productivity of the traveler), and the number of persons making the trip.<sup>22</sup> If the traveler pays for the cost of official travel out of pocket, the traveler must provide documentation for reimbursement.<sup>23</sup> Use of a personal vehicle for official business is reimbursed to the traveler at the rate of 44.5 cents per mile, or at the common carrier fare for such

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<sup>10</sup> S. 112.061, F.S.

<sup>11</sup> S. 112.061(3)(a), F.S. (travel must be approved by "head of the agency"). The "head of the agency" is defined as the highest policymaking authority of a public agency. Section 112.061(2)(b), F.S.

<sup>12</sup> S. 112.061(3)(b), F.S.

<sup>13</sup> S. 112.061(3)(f), F.S.

<sup>14</sup> The official headquarters of an officer or employee assigned to an office is the city or town in which the office is located, unless an exception applies. See s. 112.061(4), F.S.

<sup>15</sup> S. 112.061(2)(k)-(m), F.S.

<sup>16</sup> S. 112.061(5)(a), F.S.

<sup>17</sup> S. 112.061(5)(b), F.S.

<sup>18</sup> S. 112.061(6)(b), F.S.

<sup>19</sup> S. 112.061(6)(a), F.S.

<sup>20</sup> S. 112.061(6)(a), (c), F.S.

<sup>21</sup> See s. 112.061(7), F.S.

<sup>22</sup> S. 112.061(7)(a), F.S.

<sup>23</sup> S. 112.061(7)(c), F.S.

travel.<sup>24</sup> Mileage is calculated based on the current map of the Department of Transportation, plus vicinity mileage traveled for the conduct of official business.<sup>25</sup>

Travelers may also be reimbursed for taxi and ferry fares; bridge, road, and tunnel tolls; parking fees; communication expenses; and convention registration fees, if the convention or conference serves a direct public purpose relating to the employer of the public official, including expenses such as a banquet or other meal functions, if the traveler can show the charges were proper and necessary to enhance the public purpose of participation of the governmental entity at the conference.<sup>26</sup>

Counties, county constitutional officers, school boards, special districts, and metropolitan planning organizations may adopt per diem, subsistence, and mileage rates that vary from this framework, as long as their adopted rates are not less than the statutorily established rates in effect during the 2005-2006 fiscal year.<sup>27</sup> Alternative rates may be adopted by ordinance or resolution of the governing body. The rates must apply uniformly to all travel conducted by officers and employees of the government entity.<sup>28</sup>

Travelers are not required to provide notarized documentation of travel expenses but must include a written declaration that the claimed travel expenses were necessary for the performance of official duties and accurately reflect travel costs. A traveler making a deliberate misrepresentation is guilty of a second-degree misdemeanor and is civilly liable for the amount of overpayment.<sup>29</sup>

#### Limitation on the use of motor vehicles

State-owned vehicles are available for official state business as authorized by agency heads.<sup>30</sup> Agency heads are required to consider the following criteria in determining appropriate use of state vehicles:

- Carrying out state official or employee job assignments;
- Transporting an employee, state official, or other person for the purpose of conducting official state business or performing services for the state;
- Providing security; and
- To protect life or property in any emergency situation which requires the use of a state vehicle.<sup>31</sup>

For law enforcement officers employed by the state, the term “official state business” is interpreted to permit the use of the motor vehicle during normal duty hours to and from lunch or meal breaks and incidental stops for personal errands if such use is at the direction of or with the permission of the agency head. However, substantial deviations from official state business are prohibited.<sup>32</sup>

#### Death Benefits

A full-time law enforcement, correctional, or correctional probation officer who is employed by a state agency and killed in the line of duty while engaged in law enforcement duties or as a result of an assault against the officer under riot conditions is entitled to certain death benefits. Specifically, the officer’s beneficiaries or estate is entitled to receive \$1,000 towards the funeral or burial expenses of the officer.<sup>33</sup> The benefit is in addition to any other benefits to which the beneficiaries or estate is entitled under the Workers’ Compensation Law or any other state or federal statutes. The officer’s employing agency also may pay up to \$5,000 directly towards the venue expenses associated with the funeral and burial services.<sup>34</sup>

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<sup>24</sup> S. 112.061(7)(d)1., F.S.

<sup>25</sup> S. 112.061(7)(d)3., F.S.

<sup>26</sup> S. 112.061(8)(a), F.S.

<sup>27</sup> S. 112.061(14)(a), F.S.

<sup>28</sup> S. 112.061(14)(b), F.S.

<sup>29</sup> S. 112.061(10), F.S. A second-degree misdemeanor is punishable by up to 60 days imprisonment and a \$500 fine. Sections 775.082 and 775.083, F.S.

<sup>30</sup> S. 287.17(1), F.S.

<sup>31</sup> S. 287.17(2), F.S.

<sup>32</sup> S. 287.17(3)(b), F.S.

<sup>33</sup> S. 112.19(2)(f)1., F.S.

<sup>34</sup> S. 112.19(2)(f)2., F.S.

## Effect of the Bill

The bill provides that the act may be cited as the “Respecting their Sacrifice Act.”

The bill authorizes the head of a state law enforcement agency to grant up to eight hours of administrative leave to a certified law enforcement officer<sup>35</sup> in order for the officer to attend a funeral service within Florida of another officer who was killed in the line of duty. The agency head may deny the use of administrative leave for such purpose in order to maintain minimum or adequate staffing requirements.

The bill permits the head of a state or local law enforcement agency to authorize travel expenses for a law enforcement officer to attend a funeral service within Florida of another officer who was killed in the line of duty. The bill also permits a state employed law enforcement officer to use the officer’s state vehicle to attend a funeral service within Florida of another officer killed in the line of duty if authorized by the agency head.

The bill increases the amount that must be paid towards the funeral or burial expenses of a law enforcement, correctional, or correctional probation officer who was employed full time by a state agency and killed in the line of duty while performing law enforcement duties or as a result of an assault against the officer under riot conditions from \$1,000 to \$10,000.

### B. SECTION DIRECTORY:

**Section 1:** Provides that the act may be cited as the “Respecting their Sacrifice Act.”

**Section 2:** Creates s. 110.1205, F.S., relating to administrative leave for law enforcement officers.

**Section 3:** Amends s. 112.061, F.S., relating to per diem and travel expenses of public officers, employees, and authorized persons; statewide travel management system.

**Section 4:** Amends s. 112.19, F.S.; relating to law enforcement, correctional, and correctional probation officers; death benefits.

**Section 5:** Amends s. 287.17, F.S.; relating to limitation on use of motor vehicle and aircraft.

**Section 6:** Provides an effective date of July 1, 2023.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill may have an indeterminate, but likely insignificant, negative fiscal impact on state government expenditures. The bill increases the amount that must be paid towards the funeral of a law enforcement officer, correctional officer, or correctional probation officer under certain circumstances from \$1,000 to \$10,000. In addition, the bill authorizes a law enforcement agency to grant up to eight hours of administrative leave to an officer to attend a funeral service within Florida of another officer who was killed in the line of duty and to authorize travel expenses for such purpose. To the extent that some funerals may meet specified circumstances, agencies may

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<sup>35</sup> Law enforcement officers, correctional officers, and correctional probation officers must be certified by the Criminal Justice Standards and Training Commission as meeting the minimum qualifications for employment. See s. 943.13, F.S.

subsequently authorize leave, and officers may utilize authorized leave, the dollar amount of expenditures required or authorized by the bill is indeterminate. See *Fiscal Comments*.

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

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate, but likely insignificant, negative fiscal impact on local government expenditures. The bill permits the head of a law enforcement agency to authorize travel expenses for a law enforcement officer to attend a funeral service within Florida of another officer who was killed in the line of duty. To the extent that an agency may choose to authorize travel expenses and law enforcement officers may recoup such expenses, there may be indeterminate expenditures for travel. See *Fiscal Comments*.

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

None.

**D. FISCAL COMMENTS:**

Due to the rarity of deaths under the circumstances described by the bill, any required expenditures will likely be insignificant and may be absorbed within existing resources. The Department of Highway Safety and Motor Vehicles has made funeral benefit payments four times since 2019.<sup>36</sup> The Department of Agriculture and Consumer Services has had three line-of-duty deaths since 2016.<sup>37</sup> The Department of Law Enforcement reported two officer deaths in its most recent annual report.<sup>38</sup> While the dollar amount of expenditures required by the bill remains indeterminate, it is unlikely that they have a significant negative impact.

### **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 expenditure 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 does not appear to provide nor does it appear to require any additional rulemaking authority.

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

None.

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<sup>36</sup> Email from Austin Stowers, Director of Legislative Affairs, Florida Department of Financial Services, *HMSV Death Benefit* (Mar. 10, 2023).

<sup>37</sup> Florida Department of Agriculture and Consumer Services, Agency Analysis of 2023 Senate Bill 364, p.3 (Feb. 3, 2023).

<sup>38</sup> Florida Department of Law Enforcement, *Florida Law Enforcement Officer Killed Feloniously, 1980-2020*, available at <https://www.fdle.state.fl.us/CJAB/UCR/Annual-Reports/UCR-Officer-Data> (last visited Mar. 10, 2023).

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

On February 23, 2023, the Constitutional Rights, Rule of Law & Government Operations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The strike-all amendment differed from the bill in that it restricted the authorized leave, travel expenses, and use of official vehicle by certified law enforcement officers to attend certain funeral services to those within the state of Florida. The strike-all amendment also requires the agency head's authorization for a state law enforcement officer to use his or her vehicle to attend such funeral service. The amendment to the strike-all amendment corrected a scrivener's error. This analysis is drawn to the bill as amended by the Constitutional Rights, Rule of Law & Special Districts Subcommittee.