

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 621 Death Benefits for Active Duty Servicemembers

**SPONSOR(S):** Barnaby, Maney and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1094

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Mwakyanjala	Darden
2) Appropriations Committee	26 Y, 0 N	Davis	Pridgeon
3) State Affairs Committee			

### SUMMARY ANALYSIS

The State requires the payment of death benefits to the survivors of first responders, Florida National Guard (FLNG) members, and active duty members of the United States Armed Forces. Servicemembers in the United States Armed Forces receive a death benefit of \$75,000 if the member is killed or receives bodily injury that results in the loss of the servicemember's life while on active duty and engaged in the performance of official duties. Servicemembers who are killed while on active duty, but not in the context of their official duties, are eligible for a death benefit of \$25,000. These benefits are paid to a beneficiary designated by the servicemember in writing to the Department of Military Affairs (DMA). If a servicemember has not designated a beneficiary, the benefits are paid according to a priority order set in statute.

The bill consolidates the death benefit for active duty servicemembers to provide a benefit of \$75,000, regardless of whether the servicemember was killed in the performance of official duties. The bill revises the process for designating a beneficiary to allow DMA to establish a process for designation. The bill clarifies the mechanism by which the death benefit is paid by requiring DMA to request the Chief Financial Officer to draw a warrant from the General Revenue Fund for payment of the benefit. The bill grants DMA and the Department of Financial Services rulemaking authority to adopt rules and procedures appropriate and necessary to implement the regulation and distribution of death benefits of active duty servicemembers.

The bill may have a negative, but likely insignificant, fiscal impact on state expenditures.

The bill has an effective date of July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Death Benefits Required by the State Constitution

Florida Constitutional Amendment 7 (Amendment 7), as approved by the voters in November 2018, requires the payment of death benefits to the survivors of first responders,<sup>1</sup> Florida National Guard (FLNG) members, and active duty<sup>2</sup> servicemembers of the United States Armed Forces.<sup>3</sup> The employing agency is required to pay the benefit when the first responder or FLNG member, while engaged in the performance of his or her official duties, is:

- Accidentally killed or receives accidental bodily injury that results in the loss of the individual's life, provided that such killing is not the result of suicide and such bodily injury is not intentionally self-inflicted; or
- Unlawfully and intentionally killed or dies because of such unlawful and intentional act or is killed during active duty.<sup>4</sup>

For servicemembers in the United States Armed Force, the benefit must be paid from the General Revenue Fund when the member is killed or receives bodily injury that results in the loss of the member's life, so long as such death is not the result of suicide and such bodily injury is not intentionally self-inflicted.<sup>5</sup>

Amendment 7 also requires the state to waive certain educational expenses that the child or spouse of the deceased first responder, FLNG member, or active duty member of the U.S. Armed Forces incurs while obtaining a career certificate, an undergraduate education, or a postgraduate education.

To be eligible for the benefits provided under the constitution, an eligible member of the U.S. Armed Forces must have been a resident of the state or his or her duty post must have been within the state at the time of death.

##### Death Benefits for Active Duty Servicemembers

Current law provides that servicemembers of the United States Armed Forces who are killed or receive a bodily injury that results in the loss of member's life while on active duty and engaged in performance of their official duties are eligible for death benefit of \$75,000 paid by the state.<sup>6</sup> Servicemembers who are killed while on active duty, not in performance of their official duties, are eligible for death benefit of \$25,000 paid by the state.<sup>7</sup> Servicemembers are not eligible for these benefits if the killing or bodily injury is the result of suicide or was otherwise intentionally self-inflicted. The death benefit is paid to the beneficiary designated by the servicemember in writing and delivered to the Department of Military Affairs (DMA) during the servicemember's lifetime.<sup>8</sup>

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<sup>1</sup> For purposes of the amendment, "first responder" includes firefighters, paramedics, emergency medical technicians, and law enforcement, correctional, and correctional probation officers.

<sup>2</sup> S. 250.01(1), F.S., defines the term "active duty" to mean full-time duty in active military service of the United States. The term includes federal duty such as full-time training, annual training, and attendance while a person is in active military service or in a school designated as a service school by law or by the secretary of the applicable military department. The term does not include full-time duty in the National Guard. The term also includes the period during which a person in active military service is absent from duty because of illness, being wounded, being on leave, or other lawful cause.

<sup>3</sup> Art. X, s. 31, Fla. Const.

<sup>4</sup> Art. X, s. 31(a), Fla. Const.

<sup>5</sup> Art. X, s. 31(b), Fla. Const.

<sup>6</sup> S. 295.061(2), F.S.

<sup>7</sup> S. 295.061(3), F.S.

<sup>8</sup> S. 295.061(4), F.S.

If no designation is made, then the payments are made to the servicemember's surviving child or children and to the servicemember's surviving spouse in equal portions.<sup>9</sup> If the servicemember does not have a surviving child or spouse, the payment is made to the servicemember's parent or parents. If no designation is made and the servicemember has no surviving child, spouse, or parent, then the sum must be paid to the servicemember's estate.

The spouse or child of an active duty service is also eligible for the waiver of certain educational expenses incurred while obtaining a career certificate, an undergraduate education, or a postgraduate education.<sup>10</sup> The waiver amount is equal to the cost of 120 credit hours of tuition and registration fees. The benefit must be used by a child before turning 25 years of age, while the spousal benefit must be commenced within five years of the death and completed within ten years of the death. These benefits may only be received by students in good standing.

### **Effect of Proposed Changes**

The bill revises the death benefit for active duty servicemembers who are killed while on active duty to provide a benefit of \$75,000 paid by the state, regardless of whether the death occurred in the performance of the servicemember's official duties. The bill maintains current law providing that a servicemember is not eligible for the benefit in the event of suicide or an otherwise intentionally self-inflicted injury.

The bill provides that a servicemember may designate a beneficiary in a process set out by DMA. The bill requires that proof of residency or duty post of the deceased servicemember at the time of the member's death must be provided to DMA, in a manner prescribed by the department, in order to qualify for benefits.

The bill clarifies the payment process for the benefit by requiring DMA to request that the Chief Financial Officer (CFO)<sup>11</sup> draw warrants from the General Revenue Fund for the payment of benefits. The bill grants DMA and the Department of Financial Services rulemaking authority to adopt rules and procedures appropriate and necessary to implement the regulation and distribution of death benefits of active duty servicemembers.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 295.061, providing for the regulation and distribution of death benefits of active duty servicemembers.

Section 2: 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 a negative, but likely insignificant, fiscal impact on state expenditures to the extent servicemembers who are killed while on active duty outside of the performance of their official duties will receive an increased death benefit.

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<sup>9</sup> *Id.*

<sup>10</sup> S. 295.061(8), F.S.

<sup>11</sup> Art. IV, s. 4(c), F.S., provides that a CFO shall serve, within the cabinet, as the chief fiscal officer of the state. The CFO settles and approves accounts against the state and keeps all state funds and securities.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**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 expenditures 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 grants DMA and the Department of Financial Services rulemaking authority in order to adopt rules and procedures appropriate and necessary to implement the regulation and distribution of death benefits of active duty servicemembers.

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.