

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 765 Leave of Absence to Officials and Employees

SPONSOR(S): Daley

TIED BILLS: IDEN./SIM. BILLS: SB 818

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Burgess	Darden
2) Appropriations Committee	25 Y, 0 N	Perez	Pridgeon
3) State Affairs Committee	20 Y, 0 N	Burgess	Williamson

SUMMARY ANALYSIS

The provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) provide employment protections to servicemembers who have to leave employment to perform military service. USERRA requires compliance by private and public employers, including state and local governments. Current law provides a paid leave of absence for state officials and employees, as well as the officials and employees of counties, municipalities, and other political subdivisions of the state, for participation in training or active military service.

A public official or employee who is a servicemember of the Florida National Guard or a reserve component of the United States Armed Forces is eligible to receive full public pay, regardless of any other compensation from the military or other source, for the first 30 days of a leave of absence to perform active military service. Beyond the first 30 days, an employer may supplement military pay to bring the total salary of the employee to the amount earned before the start of active military duty. During the time that a public employee is in active military service, the employer must continue to provide health insurance and other employee benefits.

The bill revises the requirement that a public employer provide an employee or official who is a servicemember a full paid leave of absence for the first 30 days of active military service. The bill limits application of the paid leave of absence to a servicemember who is activated under federal military service for 90 consecutive days or more.

The bill may have a positive fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Uniformed Services Employment and Reemployment Rights Act (USERRA)¹

The federal USERRA provides employment protections to servicemembers who have to leave employment to perform military service. USERRA areas of coverage include reemployment rights, freedom from discrimination and retaliation, and continuation of health insurance coverage.² USERRA requires compliance of private and public employers, including state and local governments.³

Public Employment Leave of Absence for Military Duty

Current law provides a paid leave of absence for state officials and employees, as well as the officials and employees of counties, municipalities, and other political subdivisions of the state, for participation in training or active military service.⁴ The provisions apply to servicemembers serving as members of the United States Armed Forces on active or state active duty,⁵ the Florida National Guard, or the U.S. Reserve Forces.⁶

A public official or employee who is a servicemember of the Florida National Guard or a reserve component of the U.S. Armed Forces is eligible to receive full pay, regardless of any other compensation from the military or other source, for the first 30 days of a leave of absence to perform active military service.⁷ Beyond the first 30 days, an employer may supplement military pay to bring the total salary of the employee, including base military pay, to the amount earned before the start of active military duty.⁸ During the time that a public employee is in active military service, the employer must continue to provide health insurance and other employee benefits.⁹

A leave of absence due to military training is addressed separately from active military duty.¹⁰ A public official or employee who is a servicemember is entitled to a leave of absence without loss of vacation leave, pay, time, or efficiency rating for each day ordered to military training.¹¹ However, paid leaves of absence are limited to 240 working hours in any one annual period. For any absence in excess of 240 hours, an employer may grant administrative leave without pay, but may not reduce a servicemember's time or efficiency rating for providing such leave.

Effect of Proposed Changes

The bill revises the requirement that a public employer provide an employee or official who is a servicemember a full paid leave of absence for the first 30 days of active military service. The bill limits application of the paid leave of absence to a servicemember who is activated under

¹ 38 U.S.C. ch. 43.

² U.S. Dept. of Labor, *Veterans' Employment and Training Service, Know Your Rights*, <https://www.dol.gov/agencies/vets/programs/userra/aboutuserra#:~:text=USERRA%20prohibits%20employment%20discrimination%20against,obligations%2C%20or%20intent%20to%20serve> (last visited Jan. 19, 2024).

³ U.S. Dept. of Labor, *A Guide to the Uniformed Services Employment and Reemployment Rights Act*, <https://www.dol.gov/agencies/vets/programs/userra/USERRA-Pocket-Guide#:~:text=USERRA%20applies%20to%20virtually%20all,size%2C%20including%20the%20Federal%20Government> (last visited Jan. 20, 2024).

⁴ Ss. 115.07, 115.09, and 115.14, F.S.

⁵ The "armed forces" include the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard. S. 250.01(4), F.S.

⁶ S. 250.01(19), F.S.

⁷ Ss. 115.09 and 115.14, F.S. See also Op. Att'y Gen. Fla. 98-43 (1998).

⁸ S. 115.14, F.S.

⁹ *Id.*

¹⁰ S. 115.07, F.S.

¹¹ S. 115.07(2), F.S.

federal military service that is 90 consecutive days or more.

B. SECTION DIRECTORY:

Section 1: Amends s. 115.09, F.S., relating to leave to public officials for military service.

Section 2: Amends s. 115.14, F.S., relating to employees.

Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive impact on state government expenditures to the extent employees currently receive pay for leaves of absence of less than 90 days.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive impact on local government expenditures to the extent employees currently receive pay for leaves of absence of less than 90 days.

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 neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.