

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 Committee on Community Affairs

BILL: SB 818

INTRODUCER: Senators Avila and Collins

SUBJECT: Military Leave

DATE: February 3, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Proctor</u>	<u>MS</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 818 revises a 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 that is equal to or greater than 90 consecutive days.

The bill takes effect July 1, 2024.

II. Present Situation:

Uniformed Services Employment and Reemployment Rights Act (USERRA)

The provisions of the federal USERRA¹ apply to the state.² USERRA provides employment protections to servicemembers who have to leave employment to perform military service.

USERRA areas of coverage apply to:

- Reemployment rights;
- Freedom from discrimination and retaliation; and
- Continuation of health insurance coverage.³

USERRA requires compliance of private and public employers, including at the state and local level.⁴

¹ Chapter 43, Title 38 U.S.C.

² Section 115.15, F.S.

³ U.S. Dept' of Labor, *Veterans' Employment and Training Service, Know Your Rights*, available at <https://www.dol.gov/agencies/vets/programs/userra/aboutuserra#:~:text=USERRA%20prohibits%20employment%20discrimination%20against,obligations%2C%20or%20intent%20to%20serve> (last visited Jan. 5, 2024).

⁴ *Id.* at 2.

State Law on Public Employment Leave of Absence for Active Military Duty

A paid leave of absence from public employment⁵ for a servicemember to participate in training or active military service is governed by ch. 115, F.S.

A servicemember means a person serving as a member of the:

- United States Armed Forces⁶ on active or state active duty;
- Florida National Guard; or
- United States Reserve Forces.⁷

A period of active military service means the duration of the date of entering active military service until death or 30 days immediately succeeding the date of discharge from active military service or return from active military service, whichever is first.⁸

A public official or employee who is also a servicemember of the 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.^{9,10} 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.¹¹ During the time that a public employee is in active military service, the employer must continue to provide state-issued health insurance and other public benefits.¹²

A leave of absence due to military training is addressed separately from active military duty.¹³ 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. However, a leave of absence is limited to 240 working hours in any one annual period.¹⁴

III. Effect of Proposed Changes:

SB 818 revises a 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 that is equal to or greater than 90 consecutive days.

⁵ Sections 115.09 and 115.14, F.S., provide that public employment includes employment with the state, a county, a municipality or another political subdivision of the state, including district school and community college officers, and applies to both employment as an official and an employee.

⁶ Section 250.01(4), F.S., defines “armed forces” to mean the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard.

⁷ Section 250.01(19), F.S.

⁸ Section 115.08(2), F.S.

⁹ Sections 115.09 and 115.14, F.S.

¹⁰ Op. Att’y Gen. Fla. 98-43 (1998).

¹¹ Section 115.14, F.S.

¹² *Id.*

¹³ Section 115.07, F.S.

¹⁴ Section 115.07(2), F.S.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public employers may realize a cost savings by the narrowing application of the bill to active federal military service of at least a minimum duration of 90 days. A servicemember called to active federal military service for fewer than 90 days would not be eligible for up to 30 days of pay by the public employer.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 115.09 and 115.14.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
