

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 419 w/CS Military Service Family Relief Act
SPONSOR(S): Wiles
TIED BILLS: None. **IDEN./SIM. BILLS:** None.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Veterans' & Military Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>18 Y, 0 N w/CS</u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
3) <u>Finance & Tax</u>	<u></u>	<u></u>	<u></u>
4) <u>Transportation & Economic Development Appropriations (Sub)</u>	<u></u>	<u></u>	<u></u>
5) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The committee substitute, the "First Sergeant Carey Baker Military Relief Act," allows employers to claim a credit against any corporate income or sales tax liability for salaries paid to military reservists while on active duty. The credit for each military reservist is limited to the salary paid to the reservist prior to being called to active duty, less the amount of the active duty base pay, special duty pay, and housing allowance. The salary is based on the first full month of employment immediately prior to activation.

The credit is granted to taxpayers for an allowance against either corporate income tax or sales tax but may not be claimed against both.

The committee substitute provides that the Department of Revenue adopt emergency rules to carry out these provisions. The committee substitute is retroactive to January 1, 2003.

The committee substitute appropriates \$200,000 from the General Revenue Fund.

The committee substitute has a negative \$42.8 million dollar fiscal impact on state and local government for FY 2003-2004 or a negative \$49.8 million dollar fiscal impact [excluding the food allowance] on state and local government for FY 2003-2004.¹

The mandates provision appears to apply to the committee substitute as the grants of credits against the sales tax, reduces municipalities' and counties' revenue-raising authority. Pursuant to subsection (b) of section 18 of Article VII, Florida Constitution, a general law, reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate, may be passed by a two-thirds vote of the membership of each house of the Legislature.

¹ The Revenue Estimating Conference, March 28, 2003.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes:

The committee substitute, the "First Sergeant Carey Baker Military Relief Act," allows employers to claim a credit against any corporate income or sales tax liability for salaries paid to military reservists while on active duty. The credit for each military reservist is limited to the salary paid to the reservist prior to being called to active duty, less the amount of the active duty base pay, special duty pay, and housing allowance. The salary is based on the first full month of employment immediately prior to activation.

The credit is granted to taxpayers for an allowance against either corporate income tax or sales tax but may not be claimed against both.

The committee substitute provides that the Department of Revenue adopt emergency rules to carry out this committee substitute. The committee substitute is retroactive to January 1, 2003.

Present Situation:

The state, counties, and municipalities or political subdivisions of Florida (employing authority) may, at their discretion, grant a leave of absence to their employees. Upon a leave of absence being granted, the employee enjoys the same rights and privileges as are granted to officials. Section 115.09, F.S., provides the employing authority may supplement the military pay of its officials and employees who are reservists called to active military service for the first 30 days with full pay and, thereafter, in an amount necessary to bring the reservists' total salary, inclusive of their base military pay, to the level earned at the time they were called to active military duty.

The employing unit may, at its discretion, continue to provide any health insurance and other existing benefits to such officials and employees. There is currently no statutory requirement for private employers to pay employees who are called to active duty. However, many private corporations offer, as part of their employee benefits package, some salary assistance to those employees who are militarily activated.

C. SECTION DIRECTORY:

Section 1. Provides the title of this act is the "First Sergeant Carey Baker Military Relief Act".

Section 2. Section 212.0916, F.S, is created to provide credits for salaries paid to military reservists while on active duty; provides for definitions; provides authorization to grant tax credits, limitation on individual and total credits; and provides for administration, and rules.

- Section 3. Subsection (8) of section 220.02, F.S., is amended to provide legislative intent, relating to applicability of credits against either the corporate income tax or the franchise tax.
- Section 4. Subparagraph 12. of paragraph (a) of subsection (1) of section 220.13, F.S., is amended to include the corporate income tax credit authorized in this act relating to adjusted federal income.
- Section 5. Section 220.1875, F.S., is created, relating to credits for salaries paid to military reservists while on active duty to provide definitions; provide authorization to grant tax credits, provide limitations on individual and total credits; and provide for DOR administration, and rules.
- Section 6. Provides for rule making authority.
- Section 7. Provides for an appropriation from the state general revenue fund.
- Section 8. This act shall take effect of upon becoming law and operates retroactively to January 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: Indeterminate.
2. Expenditures: The committee substitute has a negative \$37.9 million dollar fiscal impact on state government for FY 2003-2004 or a negative \$44.1 million dollar fiscal impact [excluding the food allowance] on state government for FY 2003-2004.²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: Indeterminate.
2. Expenditures: The committee substitute has a negative \$4.9 million dollar fiscal impact on local government for FY 2003-2004 or a negative \$5.7 million dollar fiscal impact [excluding the food allowance] on local government for FY 2003-2004.³

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent such salary benefits are granted to Reservists while on state active duty, those Reservists will experience no reduction in pay.

D. FISCAL COMMENTS:

Although the provisions of the committee substitute apply retroactively to 1/1/2003, the fiscal impact will occur upon the bill becoming law and therefore will occur in FY 2003-2004.⁴

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

² Revenue Estimating Conference, March 28, 2003.

³ *Id.*

⁴ *Id.*

1. Applicability of Municipality/County Mandates Provision:

Pursuant to subsection (b) of section 18 of Article VII, Florida Constitution, a general law, reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate, may be passed by a two-thirds vote of the membership of each house of the Legislature. The committee substitute has a negative \$1.6 million dollar fiscal impact on the local option tax for FY 2003-2004 or a negative \$1.9 million dollar fiscal impact [excluding the food allowance] on the local option tax for FY 2003-2004.⁵

2. Other: None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue (DOR) comments that it will be necessary to amend current corporate income tax returns and sales tax returns, and corresponding instructions, and re-adopt the instructions by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to DOR, the bill's retroactivity could be problematic. This effective date requires amended returns by taxpayers, because the sales tax returns covering periods after January 1, 2003, have already been filed. Some corporate income tax returns covering periods after January 1, 2003, may be filed before this bill becomes law.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Subcommittee on Veterans' & Military Affairs recommended a strike-all amendment on March 20, 2003. The amendment creates the "First Sergeant Carey Baker Military Relief Act". In addition, s. 220.188, F.S., is created and provides for credits for salary paid to military reservists while on active duty, provides definitions, authorizes corporations to claim a credit against certain taxes for salaries paid to military reservists on active duty (corporate income tax exemption), and provides limitations and requirements. The amendment also creates s. 212.0961, F.S., relating to credits for salaries paid to military reservists while on active duty (sales tax credit). The section provides definitions, authorizes sales credits, and provides limitations and requirements. The amendment amends s. 220.02, F.S., relating to the legislative intent of the income tax code to include credits against either the corporate income tax or the franchise tax and the applicability of such credit for salaries paid to military reservists while on active duty. The amendment creates subparagraph 12. of paragraph (a) of subsection (1) of section 220.13, F.S., relating to the "Adjusted federal income" definition in Part II, Tax Imposed; Apportionment under the Income Tax Code to add as an allowable amount to taxable income, credits for salaries paid to military reservists. The amendment provides for an appropriation. The amendment provides for rule making. The amendment provides for retroactive operation.

The Committee on Local Government & Veterans' Affairs adopted the amendment on March 27, 2003.

⁵ *Id.*