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COMMITTEE REPORT

February 23, 2017

**S. 78**

Introduced by Senators Alexander, Goldfinch and Williams

S. Printed 2/23/17--S.

Read the first time January 10, 2017.

**THE GENERAL COMMITTEE**

To whom was referred a Bill (S. 78) to amend the Code of Laws of South Carolina, 1976, by adding Section 25‑3‑220 so as to provide that officers and employees of the State of South Carolina, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

KATRINA F. SHEALY for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 25‑3‑220 SO AS TO PROVIDE THAT OFFICERS AND EMPLOYEES OF THE STATE OF SOUTH CAROLINA, OR ANY POLITICAL SUBDIVISIONS OR DEPARTMENTS OF THE STATE OF SOUTH CAROLINA, WHO ARE COMMISSIONED OR ENLISTED FOR SERVICE IN THE SOUTH CAROLINA STATE GUARD MUST BE ENTITLED TO MILITARY LEAVE WITHOUT LOSS OF PAY, SENIORITY, OR EFFICIENCY RATING, WHEN ATTENDING STATE GUARD ENCAMPMENT OR SCHOOLS FOR TRAINING, UNDER PROPER AUTHORITY, AND ON ALL OTHER OCCASIONS WHEN ORDERED TO ACTIVE DUTY IN THE SERVICE OF THE STATE OF SOUTH CAROLINA; TO AMEND SECTION 12‑6‑1140, AS AMENDED, RELATING TO DEDUCTIONS FROM INDIVIDUAL TAXABLE INCOME, SO AS TO REQUIRE A MEMBER OF THE STATE GUARD TO COMPLETE A MINIMUM OF ONE HUNDRED NINETY‑TWO HOURS OF TRAINING OR DRILL EACH YEAR IN ORDER TO QUALIFY FOR THE DEDUCTION; TO AMEND SECTION 25‑1‑635, AS AMENDED, RELATING TO LEGAL ASSISTANCE SERVICES FOR GUARD MEMBERS AND IMMEDIATE FAMILY MEMBERS, SO AS TO AUTHORIZE SOUTH CAROLINA STATE GUARD JUDGE ADVOCATES TO PROVIDE THESE SERVICES AND TO INCLUDE THEM WITHIN THE PERSONAL LIABILITY EXEMPTION; TO AMEND SECTIONS 25‑3‑20 AND 25‑3‑130, BOTH RELATING TO THE GOVERNOR’S AUTHORITY TO CALL THE STATE GUARD INTO DUTY, SO AS TO CLARIFY THE CIRCUMSTANCES AUTHORIZING THE GOVERNOR TO CALL THE STATE GUARD INTO DUTY AND TO PROVIDE THAT CIRCUMSTANCES INVOLVING A NATURAL OR MANMADE DISASTER, EMERGENCY, OR EMERGENCY PREPAREDNESS MAY WARRANT CALLING THE STATE GUARD INTO SERVICE; AND TO AMEND SECTION 25‑3‑140, RELATING TO PAY OF STATE GUARD MEMBERS ON ACTIVE DUTY, SO AS TO PROVIDE THAT STATE GUARD MEMBERS MAY RECEIVE A DAILY STIPEND OR PER DIEM PAY FOR REASONABLE EXPENSES, OR BOTH, IF APPROVED BY THE ADJUTANT GENERAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 25 of the 1976 Code is amended by adding:

“Section 25‑3‑220. Officers and employees of the State of South Carolina, or any political subdivisions or departments of the State of South Carolina, who are commissioned or enlisted for service in the South Carolina State Guard must be entitled to military leave without loss of pay, seniority, or efficiency rating, when attending State Guard encampment or schools for training, under proper authority, and on all other occasions when ordered to active duty in the service of the State of South Carolina.”

SECTION 2. Section 12‑6‑1140(10)(c)(iv) of the 1976 Code is amended to read:

“(iv) In the case of a member of the State Guard and in lieu of minimum points determining eligibility, this deduction is allowed only if the State Guard member completes a minimum of ~~sixteen~~ one hundred ninety‑two hours of training or drill ~~each month, equating to one hundred ninety‑two hours~~ a year, and the member’s commanding officer certifies in writing to the member that the member met these requirements.”

SECTION 3. Section 25‑1‑635(A) of the 1976 Code is amended to read:

“(A) For purposes of enhancing the readiness of national guard personnel for mobilization or call up for state or federal service, legal assistance attorneys, which may include South Carolina State Guard judge advocates, and judge advocates of the South Carolina National Guard who provide premobilization legal assistance and counseling to national guard personnel may also provide legal assistance and counseling to the immediate family members and dependents of members of the South Carolina National Guard when, in the opinion of the legal assistance, attorney, or judge advocate, the legal assistant and counseling provided enhances the overall mobilization readiness of a member of the national guard who has an obligation to provide for his family and dependents in his absence in the event of his mobilization.”

SECTION 4. Section 25‑1‑635(I) of the 1976 Code, as last amended by Act 46 of 2011, is further amended to read:

“(I) Services provided in the legal assistance program are considered an official function of the national guard and must be provided at no cost to eligible personnel. Legal assistance attorneys, national guard personnel, South Carolina State Guard judge advocates, and civilian employees acting within the scope of their official duties, are exempt from personal liability for alleged negligent or wrongful acts, omissions for service, or advice rendered pursuant to the legal assistance program, so long as the attorneys, personnel, or employees neither requested nor received a fee or compensation other than their regular compensation for legal services provided to persons eligible for assistance under this section.”

SECTION 5. Section 25‑3‑20 of the 1976 Code is amended to read:

“Section 25‑3‑20. Whenever ~~any~~ a part of the national guard of this State is ordered into federal service or is otherwise tasked with duties that cause ~~so as to cause~~ the State to be, in the opinion of the Governor, without proper defense or sufficient military resources, the Governor may call the South Carolina State Guard into state duty.”

SECTION 6. Section 25‑3‑130 of the 1976 Code is amended to read:

“Section 25‑3‑130. The Governor may, in case of insurrection, invasion, tumult, riot, breach of the peace or imminent danger ~~thereof~~ of a breach, a natural or manmade disaster, or local emergency whenever the lives and property of the state’s citizens are threatened, emergency preparedness, or to enforce the laws of this State, order into service any part of the South Carolina State Guard that ~~he may deem~~ the Governor deems necessary. When the South Carolina State Guard is on active service, the commanding officer and his subordinates ~~shall~~ must be~~, and they are hereby,~~ invested with all the authority of~~,~~ sheriffs and deputy sheriffs in enforcing the laws of this State.”

SECTION 7. Section 25‑3‑140 of the 1976 Code is amended to read:

“Section 25‑3‑140. When members of the South Carolina State Guard are ordered to active duty by the Governor or by ~~his~~ the Governor’s authority, they ~~shall~~ may receive ~~the pay as specified for officers and enlisted men of the national guard~~ a daily stipend or a per diem for reasonable expenses, or both, if approved by the Adjutant General, when called out for ~~such~~ that service.”

SECTION 8. This act takes effect upon approval by the Governor.

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