



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3180 Amended by Senate Family and Veterans' Services Committee on March 13, 2019
Author: G.M. Smith
Subject: South Carolina Service Members Civil Relief Act
Requestor: Senate Family and Veterans Services
RFA Analyst(s): Gardner and Mitchell
Impact Date: March 19, 2019

Fiscal Impact Summary

The Office of the Attorney General and Office of the Adjutant General report that the enactment of this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds. Any expenses associated with the enactment of the bill can be managed with existing funding.

Explanation of Fiscal Impact

Amended by Senate Family and Veterans' Services Committee on March 13, 2019 **State Expenditure**

This bill creates the "South Carolina Servicemembers Civil Relief Act." This act expands and supplements the rights, benefits, and protections, as provided for by the federal Servicemembers Civil Relief Act, for servicemembers and their dependents. The bill defines military service as service provided by the following persons: an active duty member of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard; a National Guardsman called to active service by the President or Secretary of Defense for a period exceeding thirty consecutive days for purposes of responding to a national emergency; commissioned officers of the Public Health Service or the National Oceanic and Atmospheric Administration; servicemembers absent from duty due to sickness, injury, leave, or other lawful cause; members or reserve members of the Army, Navy, Air Force, Marine Corps, or Coast Guard on full-time active military duty, annual training duty, or attending a service school; South Carolina National Guard members called to active service by the President or Secretary of Defense for a period exceeding thirty consecutive days for purposes of responding to a national emergency, or who are called to state service under certain circumstances or by order of the Governor or local commanding officer for a period exceeding thirty consecutive days; and National Guard members of another state who are serving under an order of that state's Governor for a period of more than thirty consecutive days.

Rights, benefits, and protections afforded to service members and their dependents by Subchapter II of the federal act include protections in the following areas: default judgments; stay of proceedings when the servicemember has notice; abeyance, reduction, or waiver of penalties related to contracts; execution of judgments, attachments, or garnishments; stay of action, proceeding, attachment, or execution made by a court; exclusion of a servicemember's military service time in the tolling of statutes of limitation; limitation of a six percent interest rate for prior debts while a service member is on active duty; and child custody proceedings during a servicemember's time of deployment. Rights, benefits, and protections afforded to servicemembers under Subchapter III of the federal act include protections in the following

areas: evictions; installment contracts for purchase or lease; stay of proceedings and adjustment of obligations for real or personal property; settlement of stayed cases relating to personal property; termination of residential leases, motor vehicle leases, or telephone service contracts; life insurance policies; storage liens; and extension of these protections to dependents.

The bill provides that the rights, benefits, and protections of the federal act apply to a servicemember engaged in military service with some exceptions. For both South Carolina National Guard servicemembers and National Guard service members from other states who are serving under orders of their respective Governors or local commanding officers, the remedies and penalties afforded by the bill are not valid unless the servicemember provides a written or electronic copy of his order to military service. Any violation of the provisions of the federal act constitute a violation of the state act.

The Attorney General may bring civil actions against persons who intentionally violate the provisions of the state act. In this case, the court may order an injunction or payment of restitution to a servicemember in the amount of money unlawfully received from, or required to be refunded to, the servicemember, unless he has successfully recovered the amount in a separate action taken under the provisions of the federal act. The court may assess a civil penalty not to exceed \$5,000 per violation. Half of the penalty amount recovered must be remitted to the General Fund, and half may be retained by the Office of the Attorney General. Penalties retained by the Office of the Attorney General must be used to support enforcement or public education efforts directly related to the purpose of the act and may be carried forward to subsequent fiscal years.

In addition to the protections provided under Subchapter III of the federal act, the state act provides that a servicemember may terminate telecommunication, internet, television, satellite radio services, or athletic club or gym memberships in the instance he receives military orders to relocate for a period of service of at least ninety days to a location that would not support such a contract. The servicemember must submit to the service provider a written or electronic notice of the termination and a copy of his order to relocate. Service terminations are effective on the day that the servicemember provides written or electronic notice. Service providers who have been presented with a termination notice may not impose early termination penalties and must, within sixty days after the contract termination date, refund the servicemember for any fee paid for a service that extends beyond the termination date. Service providers are also responsible for providing servicemembers with a written or electronic notice of the servicemember's rights. Servicemembers will remain responsible for paying taxes or other contractual obligations due and unpaid at the time of the contract termination. The Adjutant General will provide written notice of servicemember rights, as provided for by the federal and state acts, on the South Carolina National Guard website.

Office of the Attorney General. The bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the General Fund, Other Funds, or Federal Funds.

Office of the Adjutant General. The bill requires the South Carolina National Guard to post on its website a list of the rights of servicemembers and servicemember's dependents in accordance

with the South Carolina Service Members Civil Relief Act. As a result, this bill does not have an expenditure impact on the General Fund, Other Funds, or Federal Funds.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director