



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 535 of the 131st G.A.

Date: December 1, 2016

Status: As Passed by the House

Sponsor: Rep. Perales

Local Impact Statement Procedure Required: No

Contents: Reemployment and reinstatement rights for a person serving in a militia outside of Ohio

State and Local Fiscal Highlights

- It is unlikely that the bill will generate any ongoing direct fiscal effects on the state or any of its political subdivisions given: (1) the relatively small number of additional individuals entitled to employment and reemployment rights under the bill, and (2) the denial of these rights by the state or a political subdivision is likely to be extremely rare.

Detailed Fiscal Analysis

The bill extends reemployment and reinstatement rights to a person who works in Ohio but who is absent from employment due to service in a militia outside of Ohio. Current Ohio law provides for the same reemployment and reinstatement rights that the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) provides to members of the uniformed services¹ and also extends the same rights to a member of the Ohio National Guard, the Ohio Naval Militia, or the Ohio Military Reserve, collectively referred to as the Ohio Organized Militia.

Civil remedy

The bill's civil remedy will affect the courts of common pleas and the Court of Claims, and possibly the state or a political subdivision if either has allegedly denied reemployment or reinstatement rights. Given the relatively small number of additional individuals entitled to these rights and the infrequency that protections would be denied, the bill is not expected to result in ongoing direct fiscal effects on the state or any of its political subdivisions.

¹ Uniformed services include members of the armed forces, Army National Guard or Air Force National Guard members, and the Commissioned Corps of the Public Health Services.

A person who is denied reemployment or reinstatement rights may seek redress through a court of common pleas unless the defendant is the state, in which case the Court of Claims has jurisdiction. The bill is not likely to generate a discernible increase in the annual operating expenses of any given court of common pleas or the Court of Claims because the few cases likely to be filed annually can be easily handled utilizing existing staff and resources.

The state or a political subdivision may, as a defendant, incur costs related to a case in which a favorable judgement is found for a public employee. Financial liabilities include court costs and possibly attorney's fees, expert witness fees, and other litigation expenses. LSC's research into this matter suggests that denial of reemployment and reinstatement rights by a government entity is extremely rare. Thus, it seems reasonable to expect that the state and political subdivisions generally will comply with the bill's extended protections and rarely incur financial settlement costs.

Criminal prohibition

Any employer that denies reemployment or reinstatement rights to a qualifying person may be fined up to \$1,000, imprisoned for up to six months, or both. This offense is an unclassified misdemeanor that falls under the subject matter jurisdiction of a municipal or county court. There should be no discernible prosecution, adjudication, and sanctioning costs for any given county or municipality to process the few criminal cases that might arise annually. There may also be occasional revenue gained for the state, counties, and municipalities in the form of court costs, fees, and fines.