



Sub. H.B. 426*

125th General Assembly

(As Reported by S. State and Local Government and Veterans Affairs)

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** This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

CONTENT AND OPERATION

Overview

The bill makes changes to numerous laws in order to provide protection for and benefits to military personnel and members of their immediate family as follows:

Use of bulk long distance telephone services

(R.C. 125.021(B))

- Allows the Department of Administrative Services to enter into a contract to purchase bulk long distance telephone services and make them available at cost, or to make bulk long distance telephone services available at cost under any existing contract the Department has entered into, to members of the immediate family of persons deployed on active duty so that those family members can communicate with the persons so deployed.
- Requires any of those telephone contracts that the Department elects to enter into to be made in accordance with the State Purchasing Law and in a nondiscriminatory manner that does not place any potential vendor at a competitive disadvantage.
- Provides that, if the Department decides to exercise either bulk long distance telephone services option, the Department must adopt rules under the Administrative Procedure Act to implement the provisions discussed in this portion of the analysis.
- Defines "immediate family," in this context, as a person's spouse residing in the person's household, brothers and sisters of the whole or of the half blood, children, including adopted children and stepchildren, parents, and grandparents.
- Defines "active duty," for this context, as active duty pursuant to (1) an Executive Order of the President of the United States, (2) an act of the Congress of the United States, (3) an order of the Governor, as its commander in chief, to the Ohio National Guard to perform any training or duty under certain circumstances, or (4) an order of the Governor to the Ohio organized militia to aid civil authorities in (a) executing the laws of this state, (b) suppressing insurrection, (c) repelling invasion, (d) acting in the event of a disaster within Ohio, or (e) promoting the health, safety, and welfare of Ohio citizens.¹

¹ Items (3) and (4) are the orders covered by the bill's cross-references to R.C. 5919.29 and 5923.21, respectively.

Armed Forces members filing a military power of attorney

(R.C. 317.322)

- Prohibits a county recorder from charging a fee to a United States Armed Forces member who presents for recording a military power of attorney executed pursuant to federal law.

Interest and finance charge limitation

(R.C. 1343.031)

- Prohibits a creditor in connection with an "obligation" (see definitions below) entered into *on or after* the bill's effective date from charging or collecting from a person, or spouse of a person, who is deployed on active duty interest or finance charges exceeding 6% per annum during the period that the person is deployed on active duty--if the steps mentioned in the third dot point below are taken.

- Provides that interest or finance charges in excess of 6% per annum that otherwise would be incurred but for the interest and finance charges limitation are forgiven. This rule applies notwithstanding any more general "contrary" rule in the Revised Code with respect to interest and finance charges.

- Provides that the amount of any periodic payment due from a person, or spouse of a person, who is deployed on active duty under the terms of the obligation must be reduced by the amount of the interest and finance charges forgiven that is allocable to the period for which the periodic payment is made.

- Provides that, in order for an obligation to be subject to the interest and finance charges limitation, the person, or spouse of the person, deployed on active duty must provide the creditor with written notice of and a copy of the military or gubernatorial orders calling the person to active duty and of any order further extending active duty, not later than 180 days after the date of the person's termination of or release from active duty.

- Permits a court to grant a creditor relief from the interest and finance charges limitation, if, in its opinion, the ability of the person, or spouse of the person, deployed on active duty to pay interest or finance charges with respect to the obligation at a rate in excess of 6% per annum is not materially affected by reason of the person's deployment on active duty.

- Defines "obligation," for this context, as any retail installment sales contract, other contract for the purchase of goods or services, or bond, bill, note, or

other instrument of writing for the payment of money arising out of a contract or other transaction for the purchase of goods or services.

- Defines "active duty" in the same manner as described under "*Use of bulk long distance telephone services*," above.

Termination of a motor vehicle lease

(R.C. 1349.02)

- Allows any person, or spouse of a person, who is deployed on active duty to terminate any motor vehicle lease that (1) is entered into *on or after* the bill's effective date and (2) is executed by or on behalf of the person who is deployed on active duty.

- Provides that termination of the motor vehicle lease is not effective until (1) the person who is deployed on active duty or the person's spouse gives notice by certified mail, return receipt requested, of the intention to terminate the lease, and (2) the motor vehicle is returned to the lessor's custody or control not later than 15 days after the delivery of the written notice.

- Provides that lease amounts unpaid for the period preceding the effective date of the lease's termination must be paid on a prorated basis. The lessor may not impose an early termination charge, but any taxes, costs of summons, and title or registration fees and any other obligation and liability of the lessee under the terms of the lease, including reasonable charges to the lessee for excess wear, use, and mileage, that are due and unpaid at the time of the lease's termination must be paid by the lessee.

- Requires the lessor to refund to the lessee lease amounts paid in advance for a period after the effective date of the lease's termination, within 30 days of that effective date.

- Upon application by the lessor to a court before the effective date of the lease's termination, allows the court to modify the relief authorized for lessees under the bill "as justice and equity require."

- Defines "active duty" in the same manner as described under "*Use of bulk long distance telephone services*," above.

- Defines "motor vehicle," for this context, as any automobile, car, minivan, passenger van, sport utility vehicle, pickup truck, or other self-propelled vehicle not operated or driven on fixed rails or track.

Termination of a cellular phone contract

(R.C. 1349.03)

- Allows any person, or spouse of a person, who is deployed on active duty to terminate, without penalty, a cellular phone contract that (1) is entered into *on or after* the bill's effective date and (2) is executed by or on behalf of the person who is deployed on active duty.
- Provides that termination of the cellular phone contract is not effective until (1) 30 days after the person who is deployed on active duty or the person's spouse gives notice by certified mail, return receipt requested, of the intention to terminate the contract, and (2) unless the person who is deployed on active duty owns the phone, it is returned to the custody or control of the cellular telephone company or the person or person's spouse agrees in writing to return the phone as soon as practicable after the deployment is completed.
- Defines "active duty" in the same manner described under **Use of bulk long distance telephone services,**" above.

Military leave of absence from institutions of higher education

(R.C. 1713.60, 3332.20, and 3345.53)

- Requires (1) private nonprofit institutions of higher education that hold a certificate of authorization from the Ohio Board of Regents, (2) state institutions of higher education, and (3) institutions that hold a certificate of registration from the State Board of Career Colleges and Schools to grant a student a "military leave of absence" from the institution while the student is serving on active duty, and for one year after the conclusion of that service, if the student is (a) a member of the National Guard or other Armed Forces reserve component and called to active duty, or (b) a member of the Armed Forces in a retired status and called to active duty. The student must not suffer an academic penalty as a result of the leave of absence.
- Requires these institutions, upon request of a student granted a military leave of absence not later than one year after the student's release from active duty to (1) *credit* tuition and fee charges toward a subsequent academic term in an amount that is 100% of what the student paid the institution for the academic term in which the student withdraws or (2) *refund* 100% of the tuition and fees paid for the academic term provided the student withdraws before the withdraw date established by the institution. Items (1) and (2) are actions an institution must take at the election of a student granted a military leave of absence. However, for purposes of item (2), if the student withdraws after the withdraw date established by the institution, the student is ineligible for a refund.

- Defines the "withdraw date" for purposes of the credit and refund provisions as the same date as that set by an institution for its general student population to withdraw from the institution or a course or class without academic penalty.

- Requires these institutions, upon request of a student granted a military leave of absence not later than one year after the student's release from active duty, to restore the student to the educational status attained prior to being called to active duty without loss of academic credits earned, scholarships or grants awarded, or (except as provided above) tuition and other fees paid prior to the commencement of active duty.

- If an institution fails to comply with the foregoing requirements, allows an aggrieved student to commence an action against the institution to enforce the requirements in the court of common pleas of the county in which the student resides or, in the case of a state institution of higher education, in the Court of Claims. If the student resides outside Ohio, the action instead must be commenced in the court of common pleas of the county in which the campus of the institution previously attended by the student is located or, in the case of a state institution of higher education, in the Court of Claims. The court may award reasonable attorney's fees and expenses if the student prevails in the action.

- Defines "active duty," as used in this context, as full-time duty in the active military service of the United States, including full-time training duty, annual training duty, and active state duty for members of the National Guard.

Determination of school district

(R.C. 3313.64(A)(9), (B)(1), (C), (F)(14), and (M))

- For purposes of continuing law that generally requires for admittance to kindergarten or first grade that a child (who is at least five years old but under 21 years old or who is a handicapped preschool child) be admitted to the schools of the school district *in which the child's parent resides* without payment of tuition, provides that a child whose parent is a member of the National Guard or a reserve unit of the United States Armed Forces and called to active duty, or a child whose parent is a member of the Armed Forces and ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being so called or ordered, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or temporary duty assignment.

- Specifies that the school district is not responsible for providing transportation for a child who lives outside of the district as a result of the parent's active duty status or temporary duty assignment.

- Provides that a child under the age of 22 who resides with a person *other than the child's parent* is entitled to attend school in the school district in which *that person resides* if both of the following apply: (1) that person has been designated, through a military power of attorney executed under federal law or comparable document necessary to complete a family care plan, as the parent's agent for the care, custody, and control of the child while the parent is on active duty as a member of the National Guard or a reserve unit of the United States Armed Forces or because the parent is a United States Armed Forces member and is on duty assignment away from the parent's residence and (2) the military power of attorney or comparable document includes at least the authority to enroll the child in school.

- Provides that the entitlement to attend school in the district in which the parent's agent under the military power of attorney or comparable document resides applies until the end of the school year in which the military power of attorney or comparable document expires.

- Defines "active duty" in the same manner as described under "*Use of bulk long distance telephone services,*" above.

Forcible Entry and Detainer Law

(R.C. 1923.062)

- Provides that, in an action brought under the Forcible Entry and Detainer (Eviction) Law for possession of residential premises of a tenant or manufactured home park resident who is deployed on active duty or of any member of the tenant's or resident's immediate family, if the tenant or resident entered into the rental agreement *on or after* the bill's effective date, the court may, on its own motion, and must, upon motion made by or on behalf of the tenant or resident, do either of the following if the tenant's or resident's ability to pay the agreed rent is materially affected by the deployment on active duty: (1) stay the proceedings for a period of 90 days unless, in the opinion of the court, justice and equity require a longer or shorter period of time or (2) adjust the obligation under the rental agreement to preserve the interest of all parties to it.

- Provides that, if a stay is granted, the court may grant the landlord or manufactured home park operator such relief as equity may require.

- Specifies that these provisions do not apply to landlords or manufactured home park operators operating less than four residential premises.
- Defines "active duty" in the same manner as described under "*Use of bulk long distance telephone services,*" above.

Individual life insurance policies

(R.C. 3915.053)

- Provides that any individual life insurance policy insuring the life of a reservist who is on active duty does not lapse and is not forfeited for the nonpayment of premiums during the reservist's period of military service or during the two-year period after that service ends if (1) the policy was in force for at least 180 days, (2) it was brought within the federal Servicemembers Civil Relief Act, and (3) it was not cancelled or had not lapsed for nonpayment of premiums prior to the reservist's commencement of the period of military service.²
- Permits insurers to continue to enforce policy provisions relating to naval or military service in time of war.
- Describes "active duty" in the same manner as under "*Use of bulk long distance telephone services,*" above.

Public utility stoppages

(R.C. 4933.12(F) and 4933.121(E))

- Prohibits a natural gas or gas company from stopping gas from entering, and prohibits an electric company from ceasing to provide electricity to, the residential premises of any residential consumer who is deployed on active duty for nonpayment for gas supplied or electricity provided to the residential premises.
- Authorizes a natural gas or gas company that is a public utility or an electric company that is a public utility to file an application with the Public Utilities Commission (PUC) for approval of authority to recover amounts owed that it determines are uncollectible from a residential consumer who is deployed on active duty.

² Current insurance law defines a "reservist" as a member of a reserve component of the United States Armed Forces and a member of the Ohio National Guard (R.C. 3923.381--not in the bill).

- Requires that recovery be through a rider on the base rates of customers of the company or through other means the PUC approves, but any amount approved to be recovered through a rider or other means must not be considered by the PUC in any subsequent rate determination.
- Requires that, upon return of a residential consumer from active duty, the company offer the consumer a period equal to at least the period of deployment on active duty to pay any arrearages incurred during the period of deployment, and further requires the company to inform the consumer that, if the period the company offers presents a hardship to the consumer, the consumer may request a longer period to pay the arrearages and, in the case of a company that is a public utility, may request the assistance of the PUC to obtain a longer period.
- Prohibits any late payment fees or interest from being charged to the residential consumer during the deployment or the repayment period.
- Defines "active duty" in the same manner as described under "*Use of bulk long distance telephone services*," above.

HISTORY

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