



Sub. H.B. 2

126th General Assembly
(As Passed by the House)

Reps. Widowfield, Buehrer, Flowers, Walcher, Hartnett, Mitchell, Uecker, Carmichael, Book, D. Stewart, Aslanides, Beatty, Blasdel, Blessing, Brown, Calvert, Carano, Cassell, Chandler, Coley, Collier, Combs, Core, Daniels, DeWine, Distel, Dolan, Domenick, C. Evans, D. Evans, Faber, Fende, Garrison, Gibbs, Gilb, Hagan, Harwood, Hoops, Hughes, Kearns, Key, Kilbane, Koziura, Latta, Law, Martin, Mason, Miller, Oelslager, Otterman, T. Patton, Perry, Peterson, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schneider, Seaver, Seitz, Setzer, J. Stewart, Strahorn, Taylor, Trakas, Ujvagi, Wagner, Wagoner, Webster, White, Widener, Willamowski, Williams, Wolpert, Yuko

BILL SUMMARY

- Expands eligibility for an Ohio income tax filing and payment extension to all National Guard members and members of a reserve component of the United States Armed Forces who are called to active duty by an executive order of the President or an act of Congress, not just those members who are serving on active or other duty under Operation Iraqi Freedom.
- Applies the Ohio income tax filing and payment extension provisions to school district income taxes and to the spouses of the aforementioned service members if joint income tax returns are filed.
- Creates the Military Injury Relief Fund from which grants to certain injured military personnel are to be made, allows a taxpayer to donate a portion of the taxpayer's Ohio income tax refund to the Fund, and also allows individuals to make direct contributions to the Fund.
- Increases the number of authorized participants in the Ohio National Guard Scholarship Program for the 2005 summer academic term from the equivalent of 800 to the equivalent of 1,000 individuals.

- Declares an emergency.

CONTENT AND OPERATION

Income tax filing and payment extension for active duty military personnel

Overview of current law

Current law grants an income tax filing and payment extension, generally upon application (see below), to National Guard members and members of a reserve component of the United States Armed Forces who are called to active or "other" duty under Operation Iraqi Freedom. Under the current extension, an eligible service member does not have to file Ohio income tax returns and make income tax payments until 61 days after the individual's duty service ends. Taxes then become due in installments as provided in a contract between the service member and the Tax Commissioner. No penalties or interest apply as long as filings and payments are made according to the contract. (R.C. 5747.026(A) and (B).)

Eligible service members generally must apply to the Tax Commissioner for the extension within 60 days after the member's duty service ends. But, if a service member receives a federal income tax filing extension, the member receives an automatic extension for filing Ohio and school district income tax returns and paying Ohio and school district income taxes equal to the federal extension, in lieu of the state's 60-day extension.¹ (R.C. 5747.026(A) and (C).)

Changes proposed by the bill

Expanded eligibility, spouses, and installments. The bill *expands eligibility* for the state's 60-day extension to all National Guard members and members of a reserve component of the United States Armed Forces who are called to active (but not "other") duty pursuant to an executive order of the President or an act of Congress; a member need not be serving in Operation Iraqi Freedom to be eligible for the extension (R.C. 5746.026(A) and (B)). It also provides that the 60-day extension applies to (1) the *spouse* of a service member if the filing status of the service member and the spouse is "married filing jointly" for the taxable year and (2) the filing of returns for and the payment of a school district income tax if the service member is required to pay that tax (R.C. 5746.026(A), (B), and (D)). Further, the bill specifies that, even if a service

¹ A federal income tax extension is available to active duty personnel serving in a combat zone or in an area in support of a combat zone. The extension is for at least 180 days after service in the zone or support area ends.

member receives an automatic extension for filing Ohio and school district income tax returns and paying Ohio and school district income taxes because of receiving a federal income tax filing extension, the member may still pay Ohio and school district income taxes *in installments* as described above (R.C. 5746.026(C)(1)).

Interest penalties, rules, and application. Current law provides that payments of penalties and interest generally cannot be required during an Ohio extension period--whether granted by the Tax Commissioner or arising from a federal income tax filing extension. The bill specifies that *interest penalties* also generally cannot be required during the extension period. (R.C. 5747.026(B)(3) and (C)(2)(b).)

Current law *requires* the Tax Commissioner to adopt rules necessary to administer the Ohio income tax filing and payment extensions--whether granted by the Tax Commissioner or arising from a federal income tax filing extension. The bill instead *authorizes* the Tax Commissioner to adopt the rules. (R.C. 5747.026(E).)

Finally, the bill's provisions described in this portion of the analysis apply to all years beginning on and after January 1, 2002 (Section 4). And, the revised Ohio income tax filing and payment extension provisions prevail in the event of any conflict between them and the general tax filing and payment provisions of the Ohio Income Tax Law (R.C. 5747.08(G)).

Military Injury Relief Fund

Creation and use

The bill creates in the state treasury the Military Injury Relief Fund that is to consist of money from two sources: taxpayer contributions from Ohio income tax refunds and direct contributions individuals may make independently of an income tax refund contribution. Money in the Fund must be used for grants to individuals who are injured while in active service as a member of the United States Armed Forces and while serving under Operation Iraqi Freedom or Operation Enduring Freedom. An individual who receives a grant from the Fund is not precluded from receiving one or more additional grants from it or from being considered for or receiving assistance offered by the Governor's Office of Veterans Affairs. (R.C. 5903.21(A).) (See **COMMENT.**)

Rules

To implement the Fund provisions, the bill requires that rules be adopted under the Administrative Procedure Act establishing all of the following (R.C. 5903.21(B)):

- Forms and procedures by which individuals may apply for a grant from the Fund;
- Criteria for reviewing, evaluating, and ranking grant applications;
- Criteria for determining the amount of grants awarded from the Fund;
- Other matters necessary to administer the grant program.

Contributions from Ohio income tax refunds

Overview. Current law allows a taxpayer claiming an Ohio income tax refund to designate on the taxpayer's tax return an amount of that refund to be contributed to the Natural Areas and Preserves Fund, the Nongame and Endangered Wildlife Fund, or both of those funds. The bill allows a taxpayer to designate an amount of the taxpayer's Ohio income tax refund to be contributed to not only either of those funds but also to the Military Injury Relief Fund; contributions could be designated, in fact, to all or any combination of the three funds. (R.C. 5101.184(A) and 5747.113(A), (B), and (C).)

Instructions to taxpayers. Current law requires the Tax Commissioner to print in the instructions accompanying an Ohio income tax return form a description of the purposes for which the Natural Areas and Preserves Fund and the Nongame and Endangered Wildlife Fund were created and how the income tax refund money contributed to those funds is used. As part of the bill's changes, the Tax Commissioner also must include in these instructions a description of the purposes for which the Military Injury Relief Fund is created and how the income tax refund money contributed to it is to be used. (R.C. 5747.113(B).)

Transfer to the Litter Control and Natural Resources Tax Administration Fund. Under current law, the Tax Commissioner must annually certify to the Director of Budget and Management the cost of administering the "income tax contribution system" for the Natural Areas and Preserves Fund and the Nongame and Endangered Wildlife Fund. In turn, the Director must transfer an amount equal to *one-half* of the administrative cost from each of those funds to the Litter Control and Natural Resources Tax Administration Fund. In no event, however, may the Department of Taxation receive in any year more than 2½% of the total amount contributed under the income tax contribution system as payment towards the cost of administering the system. (R.C. 5747.113(D).)

In establishing the Military Injury Relief Fund as a third potential recipient of Ohio income tax refund contributions, the bill requires that *one-third* of the income tax contribution system's administrative cost be allocated to, and

transferred to the Litter Control and Natural Resources Tax Administration Fund from, each potential recipient fund. The 2½% cap on the annual payment to the Department of Taxation continues under the bill. (R.C. 5747.113(D).)

Ohio National Guard Scholarship Program participants--summer 2005 academic term

Current codified law creates the Ohio National Guard Scholarship Program, which provides financial assistance to eligible Ohio National Guard members to attend institutions of higher education. That law generally limits the number of participants in the Program for the summer academic term to the equivalent of 800 full-time participants (R.C. 5919.34(B)(1)--not in the bill).

The bill carves, in uncodified law, an exception to that limitation by increasing, *for the summer academic term in 2005*, the limit on the number of participants to the equivalent of 1,000 full-time participants (Section 3 of the bill).

COMMENT

Although the bill creates the Military Injury Relief Fund, it does not specify any state government entity or official to make grants from the Fund, to otherwise administer it, or to adopt the rules under the Administrative Procedure Act specifying the forms and procedures for applications for grants from the Fund, criteria for reviewing, evaluating, and ranking these applications, criteria for determining grant amounts, etc.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-24-05	p. 78
Reported, H. State Gov't	04-19-05	pp. 674-675
Passed House (96-0)	04-20-05	pp. 687-693

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