



Ralph D. Clark

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 230**

126th General Assembly  
(As Introduced)

**Reps. Ujvagi, Yuko, McGregor, Allen, Barrett, Beatty, Book, Brown, Carano, Cassell, Chandler, Collier, DeBose, DeGeeter, Distel, Domenick, Driehaus, C. Evans, D. Evans, Fende, Garrison, Hagan, Hartnett, Harwood, Healy, Hoops, Kearns, Key, Koziura, Latta, Mason, Miller, Mitchell, Oelslager, Otterman, S. Patton, T. Patton, Perry, Redfern, Sayre, Schaffer, Skindell, S. Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Wagoner, Williams, Wolpert, Woodard, Yates**

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### **BILL SUMMARY**

- Prohibits discrimination based on military status with respect to the Civil Rights Commission Laws and various other anti-discrimination laws regarding employment and work related issues, housing and real estate acquisition, health care, and insurance.
- Establishes a voluntary, state-sponsored "Patriot Discount Card" program to provide special benefits for military personnel.
- Exempts from Ohio income taxes the compensation received by members of the Ohio Organized Militia for active duty related to preparing for, or responding to, acts of terrorism.
- Expressly includes as a taxpayer who may receive an Ohio income tax filing extension a member of the Ohio National Guard or a reserve component of the United States Armed Forces called to active duty or other duty under Operation Iraqi Freedom.
- Creates the Military Family Relief Fund to grant money to the family members of eligible military personnel called to active duty on or after September 11, 2001, and provides that the money for the fund is to come from an income tax check-off program and voluntary taxpayer contributions, matching state funds, and other donations.

- Provides for college tuition and fee waivers and reductions for the spouse or the qualified former spouse of a member of the United States Armed Services killed in the line of duty while serving in a combat zone after May 7, 1975, and makes an appropriation to reimburse the affected institutions for the waivers and reductions.
- Provides a \$100,000 death benefit to active duty members of the Ohio National Guard, rather than \$20,000 as under current law.
- Requires the Adjutant General to reimburse active duty members of the Ohio National Guard for premiums they pay for federal servicemembers' group life insurance.
- Authorizes state agencies to make their interactive video teleconference facilities available at cost to the immediate families of persons deployed on active duty.
- Requires the Attorney General to appoint a staff member of the Consumer Protection Division to expedite certain cases or issues raised by a person, or the person's immediate family, who is deployed on active duty.
- Eliminates a sales and use tax exemption for investment metal bullion and investment coin.
- Eliminates the re-employment forfeiture imposed on public retirement system retirants who return earlier than two months after retirement to public employment to fill a staffing need caused by an employee being called to active duty.
- Declares an emergency.

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## CONTENT AND OPERATION

### Overview

The bill proposes to enact provisions that protect individuals in the military service from discrimination and that provide such individuals special benefits. The provisions protecting against discrimination focus on the Civil Rights Commission Laws and various other laws regarding employment and work-related discrimination, and discrimination regarding housing and real estate acquisition, health care, and insurance. The special benefits include the Patriot Discount Card program, income tax benefits, military family relief, tuition waivers for spouses of deceased military personnel in certain cases, death benefits, reimbursement for life insurance premiums, use of interactive video teleconferencing, and expedited consumer protection aid. The bill also eliminates the sales and use tax exclusion on investment metal bullion and investment coin, thereby making those sales taxable. Finally, the bill makes changes to the law governing the public retirement systems to remove the re-employment penalty that results in a temporary loss of benefits if a retirant is employed by a public employer or police or fire department or as a teacher within two months of retirement to fill a staffing need caused by an employee being called to active duty.

### PROTECTION AGAINST DISCRIMINATION BECAUSE OF MILITARY SERVICE

Current law generally protects individuals from discrimination based on a factor such as an individual's race, color, religion, sex, age, national origin, ancestry, or disability.<sup>1</sup> The bill amends the laws governing the Civil Rights Commission duties with respect to unlawful discriminatory practices and other discrimination to add military status to the factors that cannot be used to

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<sup>1</sup> Current law lists of discriminatory factors vary, depending on the law. For example some laws include age as a prohibited factor; some do not.

discriminate.<sup>2</sup> The bill also amends certain other laws to add military status to the factors that cannot be used to discriminate regarding employment and work-related situations, housing and real estate acquisition, and insurance and health care.

In explaining the bill's provisions, this analysis does not recite the existing list of prohibited discriminatory factors in each law to which military status is being added; those existing factors are unaffected by the bill and should be understood as being present along with the added factor of military status.

### **Civil Rights Commission Laws**

The Ohio Civil Rights Commission has the duty to prevent any person from engaging in unlawful discriminatory practices. Such practices cover a wide range of areas in which discrimination may occur, including public places of accommodation, housing, real estate, employment, and credit practices. In addition to informal means of preventing unlawful discriminatory practices, which include conference, conciliation, and persuasion, the Commission may take formal action based on the filing, by any person, of a charge that another person is engaging in or has engaged in an unlawful discriminatory practice. The formal process can include investigation, hearing, and eventually issuance of various orders, including cease and desist orders and orders to pay actual damages and

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<sup>2</sup> "Military status" is defined by the bill to mean a person's status in "service in the uniformed services" (R.C. 4112.01).

*"Service in the uniformed services" means the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard Duty, and performance of duty or training by a member of the Ohio Organized Militia. "Service in the uniformed services" includes the period of time for which a person is absent from a position of public employment for the purpose of an examination to determine the fitness of a person to perform any duty described above (R.C. 5903.01, not in bill).*

*"Uniformed service" means the Armed Forces, the Ohio Organized Militia when engaged in active duty for training, inactive duty training, or full-time national guard duty, the commissioned corps of the public health service, and any other category of persons designated by the President of the United States in time of war or emergency (R.C. 5903.01).*

*"Ohio Organized Militia" means members of the Ohio Air National Guard, Ohio Army National Guard, Ohio Naval Militia, and Ohio Military Reserve who are Ohio citizens 17 to 66 years of age and who are not permanently handicapped (R.C. 5923.01, not in the bill).*

reasonable attorney fees. Commission orders may be reviewed as well as enforced by a court.

In addition to its duties to stop unlawful discriminatory practices, the Commission has other duties, including surveying the existence and effect of discrimination on civil rights in Ohio, preparing educational plans designed to eliminate prejudice, receiving reports regarding affirmative housing accommodation programs, studying problems of discrimination, and issuing publications and research and investigation results aimed at reducing or eliminating discrimination.<sup>3</sup>

The following are situations relating to the Commission and its duties in which the bill adds military status to the prohibited discriminatory factors.

**Unlawful discriminatory practice**

(R.C. 4112.01, 4112.02, and 4112.021)

**Employment.** Under the bill, it is an unlawful discriminatory practice:

- For any employer, because of military status, to discharge without just cause, refuse to hire, or otherwise discriminate against a person regarding employment;
- For any employment agency or personnel placement service, because of military status, to (1) refuse or fail to accept, register, classify properly, or refer for employment, or otherwise discriminate against any person, or (2) comply with requests from employers asking for employee applicants in violation of the Ohio Civil Rights Commission Laws;
- For any labor organization to limit or classify its membership on the basis of military status;
- For any labor organization to discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, and conditions of any person based on military status;
- For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against a person because of military status in admission to, or employment in, any apprentice training program;

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<sup>3</sup> See R.C. Chapter 4112. regarding Ohio's civil rights laws, some of which are included in the bill.

- Except when approved by the Commission in advance for a bona fide occupational qualification, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to: (1) elicit or attempt to elicit the military status of an applicant for employment or membership, (2) make or keep a record of the military status of an applicant for employment or membership, (3) use an employment, personnel, or membership form seeking to elicit information regarding military status, (4) print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination based on military status, (5) announce or follow a policy of denying or limiting employment or membership opportunities for any group because of military status, or (6) use to recruit or hire persons any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source known to discriminate against persons because of military status;
- For any person seeking employment to publish or cause to be published any advertisement that specifies or in any manner indicates that person's military status or expresses a limitation or preference as to the military status of any prospective employer.

**Public accommodations.** The bill provides that it is an unlawful discriminatory practice:

- For any proprietor or employee, keeper, or manager of a place of public accommodation to deny any person, except for reasons applicable alike to all persons regardless of military status, the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of accommodation.

**Housing accommodations and real estate.** Under the bill, it is an unlawful discriminatory practice for any person to do the following:

- Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of military status;
- Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, because of military status;

- Discriminate against any person in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or any person in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of military status;<sup>4</sup>
- Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of military status;
- Discriminate against any person in the terms or conditions of any loan, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations because of military status;
- Print, publish, or circulate any statement or advertisement, or make or cause to be made any statement or advertisement, relating to the sale, transfer, assignment, rental, lease, sublease, or acquisition of any housing accommodations, or relating to the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, that indicates any preference, limitation, specification, or discrimination based on military status, or an intention to make any such preference, limitation, specification, or discrimination;
- Make any inquiry, elicit any information, make or keep any record, or use any form of application containing questions or entries concerning military status in connection with the sale or lease of any housing accommodations or the loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations;<sup>5</sup>

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<sup>4</sup> *This provision applies to business situations, and does not apply to owner-occupied residence sales where the lending is part of the purchase price, or casual or occasional sales to a relative or friend.*

<sup>5</sup> *Any person may make inquiries, and make and keep records, concerning military status for the purpose of monitoring compliance with the Ohio Civil Rights Commission Laws.*

- Include in any transfer, rental, or lease of housing accommodations any restrictive covenant, or honor or exercise, or attempt to honor or exercise, any restrictive covenant limiting the transfer, rental, lease, or other use of any housing accommodations because of military status, or including any limitation based upon affiliation with or approval by any person, directly or indirectly, employing military status;
- Induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that a change has occurred or may occur with respect to the military status composition of the block, neighborhood, or other area in which the housing accommodations are located, or induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that the presence or anticipated presence of persons of any military status in the block, neighborhood, or other area will or may have results including the following: (1) the lowering of property values, (2) a change in the military status composition of the block, neighborhood, or other area, (3) an increase in criminal or antisocial behavior in the block, neighborhood, or other area, or (4) a decline in the quality of the schools serving the block, neighborhood, or other area;
- Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or discriminate against any person in the terms or conditions of that access, membership, or participation, on account of military status;
- Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change with respect to its military status composition;
- Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the military status of any prospective owner or user of the lot;
- Discriminate against any person in the selling, brokering, or appraising of real property because of military status.

**Creditor practices.** The bill provides that it is an unlawful discriminatory practice for any creditor to do any of the following:

- Discriminate against any applicant for credit in the granting, withholding, extending, or renewing of credit, or in the fixing of the rates, terms, or conditions of any form of credit, on the basis of military status;
- Use or make any inquiry as to military status for the purpose of limiting or specifying those persons to whom credit will be granted, except with respect to any inquiry, elicitation of information, record, or form of application required of a particular creditor by any instrumentality or agency of the federal government;
- Refuse to consider the sources of income of an applicant for credit, or disregard or ignore the income of an applicant, in whole or in part, on the basis of military status;
- Impose any special requirements or conditions, including, but not limited to, a requirement for co-obligors or reapplication, upon any applicant or class of applicants on the basis of military status in circumstances where similar requirements or conditions are not imposed on other applicants similarly situated;
- Fail or refuse on the basis of military status to maintain, upon the request of the individual, a separate account for each individual to whom credit is extended;
- Fail or refuse on the basis of military status to maintain records on any account established after November 1, 1976, to furnish information on the accounts to credit reporting agencies in a manner that clearly designates the contractual liability for repayment as indicated on the application for the account, and, if more than one individual is contractually liable for repayment, to maintain records and furnish information in the name of each individual.<sup>6</sup>

**Credit reporting agency practices.** Under the bill, it is an unlawful discriminatory practice for any credit reporting agency to do any of the following:

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<sup>6</sup> *This provision is not applicable to individuals who are contractually liable only if the primary party defaults.*

- Fail or refuse on the basis of military status to maintain, upon the request of the individual, a separate file on each individual about whom information is assembled or evaluated;
- Fail or refuse on the basis of military status to clearly note, maintain, and report any information furnished it from a creditor regarding repayment liability.

**Civil Rights Commission duties under the bill**

(R.C. 4112.04 and 4112.05)

**Discrimination surveys.** The Commission must make periodic surveys of the existence and effect of discrimination because of military status on the enjoyment of civil rights by persons in Ohio.

**Comprehensive educational program.** The Commission must prepare a comprehensive educational program, in cooperation with the Department of Education, for Ohio residents and the students in Ohio public schools designed to eliminate prejudice on the basis of military status in the state and to emphasize the origin of prejudice against military status, its harmful effects, and its incompatibility with American principles of equality and fair play;

**Affirmative action employment and housing accommodation program reports.** The Commission must also receive progress reports from state agencies, instrumentalities, institutions, boards, commissions, and other entities or any political subdivisions and their agencies, instrumentalities, institutions, boards, commissions, and other entities regarding affirmative action programs for the employment of persons against whom discrimination has occurred because of military status, or regarding any affirmative housing accommodations programs developed to eliminate or reduce an imbalance of persons of military status. All state and local governmental entities that have undertaken affirmative action programs pursuant to a conciliation agreement with the Commission, an executive order of the Governor, any federal statute or rule, or an executive order of the President of the United States must file progress reports with the Commission annually on or before the first day of November. The Commission must analyze and evaluate the progress reports and report its findings annually to the General Assembly on or before the thirtieth day of January of the year immediately following the receipt of the reports.

**Study of discrimination problems.** The Commission may study the problems of discrimination in all fields of human relationships when based on military status, or may empower local or statewide advisory agencies and conciliation councils it creates to do so.

**Publications, investigations, and research about discrimination.** The Commission may issue any publications and the results of investigations and research that in its judgment will tend to promote good will and minimize or eliminate discrimination because of military status.

**Commission hearings.** When the Commission conducts a hearing on alleged unlawful discriminatory practice, the Commission, its members, or the hearing examiner are not bound by the Rules of Evidence, but in ascertaining the practices followed by the respondent, must take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may tend to prove the existence of a predetermined pattern of employment or membership, provided that nothing in the Civil Rights Commission Laws governing its hearings authorizes or requires any person to observe the proportion that persons of military status bear to the total population or in accordance with any criterion other than the individual qualifications of the applicant.

**Civil Rights Laws affect on other laws**

(R.C. 4112.08)

The bill provides that nothing contained in the Civil Rights Commission Laws may be construed to repeal any of the provisions of any Ohio law relating to discrimination based on military status, except that any person filing such a charge of discrimination under the Civil Rights Commission Laws based on military status is barred from instituting a civil action in any court with jurisdiction for any legal or equitable relief that will effectuate the individual's rights.

**Employment and work-related discrimination**

The following are situations that are employment and work-related in which the bill adds military status to the factors that cannot be used to discriminate or that can be used to include an individual in a protected or covered class for participation in a special program, or for special benefit or protection.

**Health insuring corporation contracts with physicians**

(R.C. 124.93)

The bill prohibits health insuring corporations that enter into or renew a contract with the Department of Administrative Services (DAS) to provide health care for state employees from refusing to contract with a physician to provide that health care based on the physician's military status.

**Hiring and treatment of employees under state or political subdivision purchase contracts**

(R.C. 125.111)

Every contract, for or on behalf of the state or its political subdivisions for any purchase must contain provisions under which the contractor agrees: (1) that when hiring employees to perform work under the contract or any subcontract, the contractor or subcontractor must not discriminate against any citizen of Ohio because of military status if the person is qualified and available to do the work under the contract, and (2) that a contractor, subcontractor, or person acting on their behalf must not discriminate against, intimidate, or retaliate against any employee hired to perform work under the contract based on military status.

**Hiring and treatment of employees under public building or works contracts**

(R.C. 153.59)

Every state, township, county, or municipal contract to construct, alter, or repair any public building or public work must contain provisions by which the contractor agrees: (1) that when hiring employees to perform work under the contract or any subcontract, the contractor, subcontractor, or a person acting on their behalf must not discriminate against any citizen of Ohio based on military status if the person is qualified and available to perform the work under the contract or subcontract to which the employment relates, and (2) that a contractor, subcontractor, or person acting on their behalf must not discriminate against, or intimidate, any employee hired to perform work under the contract based on the employee's military status.

**Affirmative action programs regarding public building and works contracts; equal consideration of minority business enterprises**

(R.C. 153.59)

DAS must ensure that no capital money appropriated by the General Assembly for any purpose can be expended unless the project for which the money is appropriated provides for an affirmative action program for the employment and effective utilization of disadvantaged persons whose disadvantage may arise from military status. DAS must also ensure, when awarding contracts for capital improvement projects, that equal consideration be given to contractors, subcontractors, or joint venturers who qualify as a minority business enterprise. Under the bill, a minority business enterprise may be one that

is owned or controlled by one or more persons who are Ohio residents and who are disadvantaged because of military status.

**Hiring hall agreements**

(R.C. 153.591)

Any provision of a hiring hall contract or agreement that obligates a contractor to hire, if available, only employees referred to the contractor by a labor organization are void as against public policy and unenforceable with respect to employment under any public works contract unless at the date of execution of the contract or agreement, or within 30 days, the labor organization has in effect procedures for referring qualified employees regardless of military status.

**Public employee union anti-discrimination pledge**

(R.C. 4117.19)

As part of its annual report filed with the State Employment Relations Board, each employee organization certified or recognized to represent public employees must include a pledge, in a form prescribed by the Board, that the organization complies with the laws of the state and accepts members without regard to military status.

**Housing and real estate acquisition discrimination**

The following are situations relating to housing and real estate acquisition in which the bill adds military status to the factors that cannot be used to discriminate or that can be used to include an individual in a protected or covered class for participation in a special program, or for special benefit or protection.

**Affirmative marketing plans as condition to issuance of housing general obligations**

(R.C. 176.04)

No municipal corporation, county, or township is permitted to issue general obligations to provide or assist in providing housing unless it has, among other requirements, submitted to the housing advisory board serving it, a plan for affirmative marketing to persons who are members of groups that may be disadvantaged because of military status.

**Reporting of mortgage loan information**

(R.C. 176.06)

Each municipal corporation, county, and township must compile and make available to the public for inspection or copying for a period of five years the number and total dollar amount of mortgage loans that were originated, for which completed applications were received and applicants rejected, and that were purchased by that municipal corporation, county, or township during each fiscal year. The information must be itemized to clearly and conspicuously disclose, among other things, the number and dollar amount of mortgage loans involving mortgagors and mortgage applicants grouped according to military status.

**Denial of municipal housing to elderly or low- to moderate-income persons**

(R.C. 717.01)

A municipal corporation may construct or rehabilitate, equip, maintain, operate, and lease facilities for housing elderly and low- or moderate-income persons. No municipal corporation, with respect to those housing accommodations, may deny them to or withhold them from an elderly or low- or moderate-income person based on military status. If such a denial or withholding occurs, the elderly or low- or moderate-income person may file a charge with the Civil Rights Commission.

**Crime of interference with fair housing rights**

(R.C. 2927.03)

No person is permitted by force or threat of force to willfully injure, intimidate, or interfere with, or attempt to injure, intimidate, or interfere with (1) any person obtaining or providing housing because of military status, (2) any person participating in the process of obtaining or providing housing who is not engaging in discrimination based on military status, or (3) any person aiding or encouraging others to participate in the process of obtaining or providing housing who is not engaging in discrimination based on military status or who is participating in the exercise of free speech or peaceful assembly regarding denial of the opportunity to participate in the process of obtaining or providing housing.

**Display of notice about illegal discrimination regarding real estate transactions**

(R.C. 4735.16)

Every real estate broker's office must prominently display in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of military status in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokering services.

**Real estate transaction agency agreements**

(R.C. 4735.55)

Each written real estate transaction agency agreement must contain, among other things, a statement that it is illegal under federal and state law to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or deny or otherwise make unavailable housing accommodations because of military status, or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services.

**Insurance and health care**

The following are situations relating to insurance and health care in which the bill adds military status to the factors that cannot be used to discriminate.

**Health insurance and care**

(R.C. 1751.18)

Unless otherwise required by state or federal law, a health insuring corporation, or health care facility or provider through which a health insuring corporation has made arrangements to provide health care services, may not discriminate against any individual regarding enrollment, disenrollment, or the quality of health care services rendered based on the individual's military status.

**Insurance agent consumer fee**

(R.C. 3905.55)

An insurance agent may charge a consumer fee if, among other requirements, the agent, in charging the fee, does not discriminate based on military status.

## **BENEFITS GRANTED BECAUSE OF MILITARY SERVICE**

The bill provides a number of benefits to individuals in military service and to their families.

### **Patriot Discount Card**

(R.C. 5902.20)

#### **Program creation**

The Director of the Governor's Office of Veterans Affairs must establish a Patriot Discount Card program and provide a Patriot Discount Card to any Ohio resident who applies to the director for a card and who is deployed on active duty.<sup>7</sup> The Governor's Office of Veterans Affairs must bear all costs of the program.

#### **Card issuance**

Before issuing a card to an applicant, the director must establish the individual's identity and must ascertain that the individual is eligible. Cards must contain the signature of the cardholder and any other information the director considers necessary to carry out the purposes of the card program. Any card that the director issues is not transferable to any other person, but may be used by a member of the cardholder's immediate family in accordance with rules that must be adopted regarding the card. An individual who loses a card may obtain another card from the director upon providing the same information to the director as was required for the issuance of the original card.

The director must adopt rules under the Ohio Administrative Procedure Act to prevent the issuance of cards to individuals who are not eligible and to provide for proper use of a card by immediate family members of a cardholder while military duties require the cardholder to be outside of the state.

#### **Benefits**

The director must devise programs to provide benefits of any kind to cardholders and encourage support and participation in the programs by all persons and governmental entities. Cardholders are entitled to any benefits

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<sup>7</sup> "Active duty" for purposes of the Patriot Discount Card program means active duty pursuant to an executive order of the President of the United States, an act of Congress, an order of the Governor requiring Ohio National Guard units to perform training or duty authorized under federal law, or a proclamation of the Governor calling out the Ohio Organized Militia to aid civil authorities.

granted to them by persons or governmental entities, state laws, or ordinances or resolutions of political subdivisions. The bill, however, does not require any person or governmental entity to provide benefits to any cardholder.

**Prohibition regarding use**

No individual is permitted to use a card except to obtain for the cardholder or the cardholder's immediate family member a benefit to which the cardholder or immediate family member is entitled under the conditions of the offer.

**Income tax benefits**

**Deduction of military pay from Ohio adjusted gross income**

(R.C. 5747.01; Section 3)

Ohio's income tax is calculated using a taxpayer's "Ohio adjusted gross income," which is based on a taxpayer's federal adjusted gross income with a few adjustments provided in Ohio's income tax law. The bill adds an additional adjustment that permits a taxpayer to deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income, the amount the taxpayer received during the taxable year as compensation for serving as a member of the Ohio Organized Militia engaged in active duty related to preparing for, or responding to, acts of terrorism.<sup>8</sup> The bill makes this adjustment applicable to taxable years beginning on or after January 1, 2005.

**Ohio income tax filing extension**

(R.C. 5747.026; Section 3)

Under current law, a taxpayer who is eligible for an extension under the Internal Revenue Code for payment of federal income taxes will receive an extension of time to file any Ohio return, report, or other tax document and an extension of time in which to pay Ohio income taxes and school district income taxes. The bill specifies that this includes a member of the Ohio National Guard or a member of a reserve component of the United States Armed Forces called to active duty or other duty under Operation Iraqi Freedom. The bill makes this provision applicable to taxable years beginning on or after January 1, 2005.

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<sup>8</sup> "Acts of terrorism" means acts committed within the territorial jurisdiction of the state that are intended to do one or more of the following: (1) intimidate or coerce a civilian population, (2) influence the policy of any government by intimidation or coercion, (3) affect the conduct of any government by intimidation or coercion.

## **Military Family Relief Fund**

(R.C. 5747.03, 5747.113, and 5902.26)

### **Creation and purpose**

The bill creates in the state treasury the Military Family Relief Fund to be used to grant money to the family members of eligible military personnel called to active duty on or after September 11, 2001.<sup>9</sup> The Director of the Governor's Office of Veteran Affairs must make the grants, upon application and in accordance with rules the director must adopt under the Ohio Administrative Procedure Act. Those rules must establish (1) forms and procedures by which individuals may apply for fund money, (2) criteria for reviewing, evaluating, and ranking applications, (3) criteria for determining the amounts awarded, and (4) any other rules necessary to administer the fund.

### **Sources of money**

**Voluntary taxpayer contribution.** The bill provides that for taxable years beginning in 2005 or thereafter, a taxpayer who wishes to contribute to the Military Family Relief Fund may donate any part of the taxpayer's refund or increase the payment required to accompany the taxpayer's annual income tax return. A taxpayer must designate on the taxpayer's income tax return the amount he or she wants to contribute to the fund, provided that the amount must be at least \$1. If a taxpayer elects to increase a payment required to accompany the taxpayer's return and the taxpayer fails to remit the full amount of the contribution, the amount of the contribution must be reduced accordingly. In no case shall a contribution reduce the combined amount of the state and school district income taxes shown to be due on a taxpayer's annual return. The bill requires the Tax Commissioner to provide with the income tax form instructions a description of the fund's purposes and how money contributed to it is used. The Commissioner is required to deposit the contributions into the fund.

**Matching tax funds.** The bill requires the Treasurer of State to credit to the Military Family Relief Fund from revenue from the income tax and the withholding tax imposed on certain qualifying pass-through entities, an amount

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<sup>9</sup> "Eligible military personnel" are Ohio residents who are members of the Ohio National Guard or reserve components of the United States Armed Forces currently serving on active duty pursuant to an executive order issued by the President of the United States or an Act of Congress.

A "family member" is a spouse, sibling, son, daughter, parent, or grandparent.

equal to the total dollar value contributed to the fund from the voluntary income tax contributions.

**Donations.** The bill also permits any person to contribute directly to the fund in addition to or independently of an income tax contribution.

**Tuition waiver**

(R.C. 3333.26; Section 4)

**Current law**

Current law provides that state-supported institutions of higher education must waive tuition and student fees for up to four academic years of undergraduate education to a student they admit that is: (1) an Ohio resident who is under 26 years of age, or under 30 years of age if honorably discharged from the armed services of the United States, and who is the child of a public service officer killed in the line of duty or of a member of the United States Armed Services killed in the line of duty during Operation Enduring Freedom or Operation Iraqi Freedom, or (2) an Ohio resident who is the spouse or qualified former spouse of a public service officer killed in the line of duty.<sup>10</sup> Private institutions of higher education<sup>11</sup> may reduce their tuition and fees for the persons described above that they admit by an amount indicated by the Ohio Board of Regents. Any private institution that makes such a reduction is eligible to receive a grant in that amount from the board.

Each state-supported institution of higher education that enrolls students described above must report to the board, by July 1 of each year, the number of students who were so enrolled and the average amount of all such tuition and fees waived during the preceding year. The board must determine the average amount of all such tuition and fees waived during the preceding year, which will be the

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<sup>10</sup> "Operation Enduring Freedom" means that period of conflict that began October 7, 2001, and ends on a date declared by the President of the United States or Congress.

"Operation Iraqi Freedom" means that period of conflict that began March 20, 2003, and ends on a date declared by the President of the United States or Congress.

"Public service officer" means an Ohio firefighter, volunteer firefighter, police officer, member of the highway patrol, employee designated to exercise the powers of police officers under Ohio law, or other peace officer as defined by the Revised Code, or a person holding any equivalent position in another state.

<sup>11</sup>"Private institution of higher education" refers to barber schools, schools of cosmetology, institutions with a certificate of authorization issued by the Ohio Board of Regents, and career colleges and universities.

amount of grants that participating institutions receive during the current year, but no grant can exceed the tuition and student fees due and payable by the student prior to the reduction. Such grants must be made for four years of undergraduate education of an eligible student.

Current law defines "qualified former spouse" to mean the former spouse of a public service officer who is the custodial parent of a minor child of that marriage pursuant to an order allocating parental rights and responsibilities for care of the child.

### **The bill**

The bill makes the state-supported institution of higher education tuition and fee waiver and the private institution tuition and fee reduction apply to a spouse or a qualified former spouse of a member of the United States Armed Services killed in the line of duty while serving in a combat zone after May 7, 1975. The bill defines "combat zone" to mean an area which the President of the United States by executive order designates as an area in which armed forces of the United States are or have engaged in combat. The bill alters the definition of "qualified former spouse" to include the former spouse of a United States Armed Forces member.

The bill also provides that, on July 15 of 2005 and 2006, or as soon as possible thereafter, the Board of Regents must certify to the Director of Budget and Management the amount that state-supported and private institutions of higher education must be paid for the cost of providing tuition waivers or reductions to spouses and qualified former spouses of members of the armed services of the United States killed in the line of duty while serving in a combat zone after May 7, 1975. Upon receiving the certification, the director must increase the appropriations for Ohio Instructional Grants by the amount certified. The increased appropriation must be used by the Board to pay the institutions for the cost of providing tuition waivers or reductions to those spouses and qualified former spouses.

### **Ohio National Guard death benefit**

(R.C. 169.05, 2969.14, and 5919.33)

### **Benefit**

Under current law, on certification of the availability of funds by the Director of Budget and Management, the Adjutant General must pay a death benefit of \$20,000 from appropriations for operating expenses to the properly designated beneficiary or beneficiaries of any member of the Ohio National Guard

who dies while performing state active duty under orders issued by the Adjutant General on behalf of the Governor.

The bill increases this death benefit to \$100,000, and provides that \$80,000 of it is to come from the Crime Victims Reparations Fund. (The remaining \$20,000 continues to be paid from Adjutant General operating appropriations.) Upon the Adjutant General's request, the Director of Budget and Management must request that the Attorney General transfer sufficient additional money every fiscal year from the Reparations Fund to pay the \$100,000 death benefit to the properly designated beneficiary or beneficiaries of any member of the Ohio National Guard who dies while performing active duty under orders issued on behalf of the Governor.<sup>12</sup> If the money the Attorney General transfers is insufficient to pay the total death benefit required, the Adjutant General must request the Director to request that the Director of Commerce transfer sufficient money from unclaimed funds to supplement the money transferred by the Attorney General to pay the death benefit. The bill makes corresponding changes to the laws governing disposition of money from the Crime Victims Recovery Fund and unclaimed funds as part of the death benefit funding mechanism.<sup>13</sup>

**Life insurance premium reimbursement**

(R.C. 5919.31)

The bill provides that if an active duty member of the Ohio National Guard chooses to purchase life insurance pursuant to the federal "Servicemembers' Group Life Insurance Act," the Adjutant General must reimburse the member in an amount equal to the premium paid.<sup>14</sup>

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<sup>12</sup> "Active duty member" for purposes of the death benefit means a member of the Ohio National Guard under active duty after September 11, 2001, pursuant to an executive order of the President of the United States, an Act of Congress, an order of the Governor requiring Ohio National Guard units to perform training or duty authorized under federal law, or a proclamation of the Governor calling out the Ohio Organized Militia to aid civil authorities.

<sup>13</sup> The bill refers to transfers from the Crime Victims Reparations Fund, but in a different provision amends the Crime Victims Recovery Fund law as part of the funding mechanism.

<sup>14</sup> "Active duty member" for purposes of the federal life insurance premium reimbursement means a member of the Ohio National Guard under active duty pursuant to an executive order of the President of the United States, an Act of Congress, an order of the Governor requiring Ohio National Guard units to perform training or duty

### *Interactive video teleconference facilities*

(R.C. 125.024)

The bill provides that DAS and any other state agency that owns or operates interactive video teleconference facilities may make them available at cost to members of the immediate family of persons deployed on active duty so that those family members can communicate with the persons deployed.<sup>15</sup> DAS must adopt, and may amend, rules under the Administrative Procedure Act to implement these provisions.

### *Expedition of consumer protection and other cases or issues*

(R.C. 1349.04)

The bill requires the Attorney General to appoint a member of the staff of the Consumer Protection Division to expedite cases or issues raised by a person, or the immediate family of the person, who is deployed on active duty, which cases or issues relate to Ohio laws regulating consumer protection.<sup>16</sup> The expedition of cases and issues also applies to laws addressing the following:

- DAS authority to contract for state agencies regarding telephone, telecommunication, and computer services;
- A prohibition against a county recorder charging fees for the recording of a military power of attorney;

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*authorized under federal law, or a proclamation of the Governor calling out the Ohio Organized Militia to aid civil authorities.*

<sup>15</sup> *"Active duty member" for purposes of interactive video conference facilities means active duty pursuant to an executive order of the President of the United States, an Act of Congress, an order of the Governor requiring Ohio National Guard units to perform training or duty authorized under federal law, or a proclamation of the Governor calling out the Ohio Organized Militia to aid civil authorities.*

*"State agency" means every organized body, office, or agency established by Ohio laws for the exercise of any function of government.*

<sup>16</sup> *"Active duty" has the same meaning as that term is used for purposes of interactive video conference facilities.*

*"Immediate family" means a person's spouse residing in the person's household; brothers and sisters of the whole or half blood; children, including adopted children and stepchildren; parents; and grandparents.*

- Interest and finance charges regarding a person or spouse deployed on active duty;
- Termination of motor vehicle leases and cellular phone contracts where a person or spouse is deployed on active duty;
- Military leave of absence from state and private institutions of higher education and career colleges and universities;
- Authority of courts where ability to pay agreed rent is materially affected by deployment on active duty;
- Free public schooling when a parent is on active duty;
- Provisions of life insurance contracts when a Reservist is on active duty;
- Prohibiting gas and electric service shut off for the residential premises of a residential customer on active duty.

## **OTHER PROVISIONS**

### **Subjecting investment metal bullion and investment coin purchases to sales and use tax**

(R.C. 5739.01, 5739.011, and 5739.02)

Under Ohio's sales and use tax law, sales of investment metal bullion and investment coins are exempted--neither tax applies. Current law defines "investment metal bullion" to mean any elementary precious metal that has been put through a process of smelting or refining, including gold, silver, platinum, and palladium, and which is in such state or condition that its value depends upon its content and not upon its form. "Investment metal bullion" does not include fabricated precious metal that has been processed or manufactured for one or more specific and customary industrial, professional, or artistic uses. Current law defines "investment coins" to mean numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium, or other metal under the laws of the United States or any foreign nation with a fair market value greater than any statutory or nominal value of such coins.

The bill eliminates the exemption and subjects their sale to the sales and use taxes. The title of the bill states that the application of the sales tax to investment metal bullion and investment coin is intended to fund the tuition and fee waivers and reductions discussed above. But the bill does not amend or enact any provision of codified or uncodified law to mandate such a funding purpose.

**Re-employment forfeiture not applicable when filling job of person on active duty**

(R.C. 145.38, 145.386, 742.26, 742.261, 3307.35, 3307.354, 3309.341, and 3309.346)

Under current law governing the Public Employees Retirement System, Ohio Police and Fire Pension Fund, State Teachers Retirement System, and School Employees Retirement System, any retirant under those systems receiving benefits from a system is penalized if, within two months after retirement, the retirant takes a job working for a public employer, for a police or fire department, or as a teacher. Additionally, retirants under the State Highway Patrol Retirement System and the Cincinnati Retirement System are also subject to the penalty if they take such employment under the same circumstances. The penalty is temporary forfeiture, until the two months from the date of retirement have elapsed, of the benefits the retirant is otherwise entitled to receive. In addition, service and contributions for that period are not included in the calculation of any new retirement benefits based on the new employment.

Under the bill, a retirant employed by a public employer or police or fire department or as a teacher to fill a position vacated by an employee called to active military duty pursuant to an executive order of the President of the United States, an Act of Congress, an order of the Governor requiring Ohio National Guard units to perform training or duty authorized under federal law, or a proclamation of the Governor calling out the Ohio Organized Militia to aid civil authorities, is not to be subject to the forfeiture provisions. All service and all contributions made on compensation earned during the retirant's employment must be used in the calculation of new retirement benefits based on the retirant's employment.

**Income tax refund contribution system changes**

(R.C. 1517.11, 1531.26, 5101.184, and 5747.113)

Current law permits taxpayers to contribute any part of their Ohio income tax refund to the Natural Areas and Preserves Fund, the Nongame and Endangered Wildlife Fund, or both. The Tax Commissioner administers the income tax refund contribution system and is authorized by law to certify to the Director of Budget and Management the costs of administering it. (The amount the Department of Taxation can receive for administrative costs is capped at 2.5% of the total contributions each year.) The Director must transfer one-half of the cost of administering the system from each of the funds.

Because the bill, as discussed above, allows taxpayers to not only contribute any portion of their refund to the new Military Family Relief Fund, but also any additional amount, the name of the system has been changed to the income tax contribution system. Additionally, the administration costs are now to be divided three ways, with a third each paid from the three funds: the Natural Areas and Preserves Fund, the Nongame and Endangered Wildlife Fund, and the Military Family Relief Fund.

**Effective date**

(Section 6)

The bill declares that it is an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The stated reason for the necessity is to recognize and ease the hardship that many members of the Armed Services and their families are facing as a result of their service for their country. Because of the emergency, the bill will go into immediate effect, if passed by a two-thirds vote of each house of the General Assembly and signed by the Governor.<sup>17</sup>

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	05-03-05	pp. 734-735

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<sup>17</sup> Sections 1d and 16, Article II, Ohio Constitution.