

# Fiscal Note & Local Impact Statement

127<sup>th</sup> General Assembly of Ohio

**Revised**

Ohio Legislative Service Commission  
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**BILL:** Sub. H.B. 372 **DATE:** November 7, 2007

**STATUS:** As Reported by House Infrastructure,  
Homeland Security, and Veterans Affairs **SPONSOR:** Rep. R. McGregor

**LOCAL IMPACT STATEMENT REQUIRED:** Yes

**CONTENTS:** To exempt military retirement pay from the income tax and exempt the estates of armed forces members who died while serving in a combat zone from probate fees

## State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
<b>General Revenue Fund – Income Tax Exemption</b>			
Revenues	- 0 -	\$12 to \$23 million loss	\$14 to \$23 million loss
Expenditures	- 0 -	- 0 -	- 0 -
<b>State Bureau of Motor Vehicles Fund (Fund 4W4) – Department of Public Safety</b>			
Revenues	Registration fee loss, magnitude dependent on number of Purple Heart license plates issued	Registration fee loss, magnitude dependent on number of Purple Heart license plates issued	Registration fee loss, magnitude dependent on number of Purple Heart license plates issued
Expenditures	- 0 -	- 0 -	- 0 -
<b>State Highway Safety Fund (Fund 036) – Department of Public Safety</b>			
Revenues	Registration fee loss, magnitude dependent on number of Purple Heart license plates issued	Registration fee loss, magnitude dependent on number of Purple Heart license plates issued	Registration fee loss, magnitude dependent on number of Purple Heart license plates issued
Expenditures	- 0 -	- 0 -	- 0 -
<b>Various State Funds – Licensing Boards</b>			
Revenues	Potential small loss	Potential small loss	Potential small loss
Expenditures	- 0 -	- 0 -	- 0 -



<b>General Revenue Fund (GRF) – Civil Rights Commission</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	(1) Up to \$20,000 in one-time publication updates; (2) Potential increase of up to \$59,186 or more for additional Civil Rights Commission staff; (3) Potential increase of up to between \$47,600 and \$61,500 for one additional Attorney General staff member*	(1) Potential increase of up to \$59,186 or more for additional Civil Rights Commission staff; (2) Potential increase of up to between \$47,600 and \$61,500 for one additional Attorney General staff member*	(1) Potential increase of up to \$59,186 or more for additional Civil Rights Commission staff; (2) Potential increase of up to between \$47,600 and \$61,500 for one additional Attorney General staff member*
<b>Consumer Protection Enforcement Fund (Fund 631) – Attorney General</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase of up to between \$47,600 and \$61,500 for one additional Attorney General staff member*	Potential increase of up to between \$47,600 and \$61,500 for one additional Attorney General staff member*	Potential increase of up to between \$47,600 and \$61,500 for one additional Attorney General staff member*

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

\* Presumably, the potential additional staffing costs for the Attorney General would be covered by funds appropriated from the GRF, the Consumer Protection Enforcement Fund (Fund 631), or some mix of both revenue streams.

- Exempting military retirement pay from the state income tax will reduce the tax base and therefore reduce income tax revenues. However, exempting military retirement pay may reduce the amount claimed for the retirement income credit, partially offsetting the revenue reduction from the exemption. The GRF would bear 94.1% of the revenue loss.
- The bill's probate fee exemption does not appear to have any direct and readily discernible effect on state revenues and expenditures.
- Requiring state licensing boards to defer late fees and penalties for National Guard or reserve members for up to six months after they have completed service might result in some foregone licensing revenue. It would depend on the number of licensees who fit into this category.
- **State Bureau of Motor Vehicles Fund.** The bill allows any person who has been awarded the Purple Heart to be issued Purple Heart license plates at no charge. Depending on the number of Purple Heart license plates issued in a given year, there would likely be a loss in related registration fee revenues deposited in the state treasury to the credit of the State Bureau of Motor Vehicles Fund (Fund 4W4). The magnitude of that likely annual revenue loss is, as of this writing, uncertain.
- **State Highway Safety Fund.** Under current law, an \$11 fee is added to every vehicle registration and subsequent to its collection is forwarded for deposit in the state treasury to the credit of the State Highway Safety Fund (Fund 036). Under the bill, a person being issued Purple Heart license plates would not pay this \$11 fee. Depending on the number of Purple Heart license plates issued in a given year, there would likely be a loss in related registration fee revenues credited to Fund 036. The magnitude of that likely annual revenue loss is, as of this writing, uncertain.

- **Civil Rights Commission.** As a result of the duties imposed under the bill, the Commission estimates that it will: (1) need to hire at least one investigator, at a total annual cost of \$59,186 in salary and benefits, and (2) alter or replace various public awareness and education materials at a one-time cost of no more than \$20,000.
- **Office of the Attorney General.** 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. If an additional staff person were hired to perform those duties, it would be as a complaint specialist at an annual cost in salary and benefits of between \$47,600 and \$61,500. Presumably, those annual costs would be covered by funds appropriated from the GRF, the Consumer Protection Enforcement Fund (Fund 631), or some mix of both revenue streams.

### ***Local Fiscal Highlights***

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
<b>Counties, municipalities, townships, and libraries (LGF and LLGSF)</b>			
Revenues	- 0 -	\$900,000 to \$1.4 million loss	\$900,000 to \$1.4 million loss
Expenditures	- 0 -	- 0 -	- 0 -
<b>School districts</b>			
Revenues	- 0 -	\$1.2 to \$1.3 million loss	\$1.2 to \$1.3 million loss
Expenditures	- 0 -	- 0 -	- 0 -
<b>Counties – due to exemption of estates from probate fees</b>			
Revenues	- 0 -	Potential probate fees loss, likely to be minimal at most	Potential probate fees loss, likely to be minimal at most
Expenditures	- 0 -	No apparent fiscal effect on probate court operations	No apparent fiscal effect on probate court operations
<b>Political subdivisions with licensing responsibilities</b>			
Revenues	Potential small loss	Potential small loss	Potential small loss
Expenditures	- 0 -	- 0 -	- 0 -
<b>Counties, Municipalities, and Townships (those levying permissive motor vehicle license taxes)</b>			
Revenues	Motor vehicle license tax loss, magnitude dependent on number of Purple Heart license plates issued	Motor vehicle license tax loss, magnitude dependent on number of Purple Heart license plates issued	Motor vehicle license tax loss, magnitude dependent on number of Purple Heart license plates issued
Expenditures	- 0 -	- 0 -	- 0 -
<b>Counties and Municipalities (discrimination actions)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase for courts to adjudicate civil actions alleging discrimination, magnitude uncertain	Potential increase for courts to adjudicate civil actions alleging discrimination, magnitude uncertain	Potential increase for courts to adjudicate civil actions alleging discrimination, magnitude uncertain

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Exempting military retirement pay from the state income tax will reduce the tax base and therefore reduce income tax revenues. However, exempting military retirement pay may reduce the amount claimed for the retirement

income credit, partially offsetting the revenue reduction from the exemption. The Local Government Fund (LGF) would bear 3.68% of the revenue loss and the Library and Local Government Support Fund (LLGSF) would bear 2.22% of the revenue loss.

- School district income tax revenues would be reduced due to a reduction in the tax base.
- Based on conversations that LSC fiscal staff had with certain probate judges, it does not appear that, generally speaking, the number of estates potentially exempted in any affected probate court from paying certain court service fees will be very large in any given year. Assuming that were true, it seems unlikely that the magnitude of probate court service fees lost in any affected county will exceed minimal on an ongoing basis. For the purposes of this fiscal analysis, "minimal" means an estimated revenue loss of no more than \$5,000 for any affected county per year. The bill's fee exemption provision does not appear to directly affect the annual operating expenses of any county, in particular those of the probate division of its court of common pleas.
- Requiring political subdivisions involved with professional or occupational licensing to defer late fees and penalties for National Guard or reserve members for up to six months after military service is completed might result in some foregone licensing revenue. It would depend on the number of licensees who fit into this category.
- **Local permissive motor vehicle license taxes.** The bill's provision that allows a person who has been awarded the Purple Heart to apply for a Purple Heart license plate at no charge means that person will not have to pay any permissive local motor vehicle license taxes. The total permissive tax levy paid by a person cannot exceed \$20 per taxing district (the combination of all county, municipality, and township levies). Thus, as a result of the bill, it is likely that some taxing districts will lose motor vehicle license tax revenues that would otherwise have been collected. The magnitude of that likely annual revenue loss for any affected taxing district (county, municipality, or township) is, as of this writing, uncertain.
- **Civil actions filed in courts of common pleas, municipal courts, and county courts.** As a result of the bill, it is possible that additional civil actions alleging discrimination, in this case based on a person's military status, will be filed in various courts of common pleas, municipal courts, and county courts around the state. As of this writing, the number of those additional civil actions that might be filed statewide, or even in a given local jurisdiction, is uncertain. Thus, the effect of the bill on any given court's workload and associated annual operating expenses is also uncertain.

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## ***Detailed Fiscal Analysis***

The bill exempts military retirement pay from the income tax, exempts estates of armed forces members who died while serving in a combat zone from probate fees, provides that reservists and National Guard members may renew their professional licenses within six months after active duty service, and extends continuing education reporting periods for National Guard members ordered to duty by the Governor.

### **Exemption of military retirement pay**

The proposal to exempt military retirement benefits from the personal income tax would exempt the retirement benefits of approximately 39,371 retired military personnel in Ohio. The table below shows the breakdown of retired military personnel in Ohio and the benefits they received in federal fiscal year 2006 (the data include national guard retirees receiving pensions from the Department of Defense (DOD)).<sup>1</sup>

<b>Ohio Military Retirement Benefits – 2006</b>			
	Retirees (paid by DOD)	Retirement Benefits	Average Benefit
Army	11,065	\$185,076,000	\$16,726
Navy/Marines	9,638	\$170,028,000	\$17,641
Air Force	18,096	\$398,040,000	\$21,996
Coast Guard	572	\$10,140,000	\$17,727
<b>Total</b>	<b>39,371</b>	<b>\$763,284,000</b>	<b>\$19,387</b>

Military retirees in Ohio received a total of \$763 million in benefit payments. The average retiree received approximately \$19,390. At an effective tax rate of 2.87%, Ohio would lose approximately \$21.9 million in revenues from the personal income tax each year that military retirement benefits are exempted. Excluding military retirement benefit payments from a taxpayer's Ohio adjusted gross income (OAGI) may reduce the amount the taxpayer could claim for the retirement income credit. If 39,371 taxpayers claiming the \$200 maximum credit were no longer able to claim the credit, then the aggregate amount of the credit claimed would fall by \$7.9 million. Depending on other credits these taxpayers may claim, tax revenue may increase by up to this amount. This would reduce the net cost of exempting military retirement benefits from the income tax. The net revenue loss may be between \$14.0 million and \$21.9 million. The GRF would bear 94.1% of the loss, the Local Government Fund would bear 3.68%, and the Library and Local Government Support Fund would bear 2.22%.

In view of the income tax rate reductions in H.B. 66 of the 126th General Assembly for fiscal years 2005 and beyond, the revenue loss due to the proposed exemption of military retirement benefits from income tax may likely reduce in the future. Increases in the number of retirees and the benefits they receive would act to increase the size of the revenue loss.

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<sup>1</sup> Source: Department of Defense – Office of the Actuary – DOD Statistical Report on the Military Retirement System Fiscal Year 2006.

The exemption would also reduce the tax base for some school district income taxes. The revenue loss would depend on the school districts in which the military retirees reside, the school district income tax rates for those districts, and the value of the exemptions claimed.<sup>2</sup> If an individual were in a district without a school district income tax, there would be no revenue loss due to that individual's exemption. The federal adjusted gross income (FAGI) of taxpayers in school districts with a school district income tax is approximately 10.4% of statewide FAGI and the (weighted) average school district income tax rate is approximately 1.44%.<sup>3</sup> This percentage of income and average tax rate yield an estimated statewide school district income tax revenue loss of \$1.2 million.

### **Income tax deduction for retired pay based on credit for military service**

The bill also provides an income tax deduction for federal service that includes military service (AM 5107-127 for H.B. 372). The revenue loss depends on the number of individuals eligible for the deduction and the amount they are able to deduct. The state revenue loss is estimated to be between \$420,000 and \$2.4 million. School district income tax revenues may fall between \$2,000 and \$14,000.

Under Federal law, military retirees may opt for taking credit for their military service toward federal civilian retirement systems, but when they do so, they have to waive their military retirement pay. Out of the total of 42,734 military retirees in Ohio for FY 2006,<sup>4</sup> approximately 1.75% are estimated to have opted for taking credit for their military service according to an official from the Department of Defense who provided this information in response to a request from LSC. Based on the average benefit of Ohio military retirees (\$19,387) the amount of retirement pay that this subgroup of military retirees could claim as a tax deduction is estimated at \$14.5 million. The revenue loss from this level of deduction is estimated at \$420,000.

In accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA),<sup>5</sup> Ohio law permits members of the five state retirement systems<sup>6</sup> who leave public employment for "service in the uniformed services" then return to public employment with the same employer to purchase up to five years of service credit for their uniformed service (except for SHPRS members, who may purchase up to seven years of service credit). Aggregating data from the five state retirement systems, in 2005 there were 3,185 members in total who had purchased credits for their

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<sup>2</sup> There is no tax rate limit. The only stipulation by law is that the tax rate must be in increments of a quarter percent (0.25%). Currently, the minimum tax rate levied by a district is 0.50%, the maximum tax rate is 2.00%, the median tax rate is 1.00%, and the most frequently charged tax rate is 1.00%.

<sup>3</sup> The percentage of FAGI in districts with a school district income tax and the average tax rate were calculated using information from 2004 Ohio income tax returns and 2006 school district income tax rates.

<sup>4</sup> *DOD Statistical Report on the Military Retirement System, Fiscal Year 2006*. The report presents both the number of retirees (all living military retirees) and the number of retirees being paid by DOD (whose net retirement pay is greater than \$0.00).

<sup>5</sup> 38 U.S.C. §§ 4301 et.seq.

<sup>6</sup> The state's five public retirement systems are the Public Employees Retirement System (PERS), Ohio Police & Fire Pension Fund (OP&F), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), and State Highway Patrol Retirement System (SHPRS).

military service.<sup>7</sup> Assuming that there is no difference in pension rates for purchased credit years and the years of regular service with the employer, and using the average benefit received by the retirees, total benefits received by this group of retirees that would be eligible for tax deduction under this amendment is estimated at \$81.3 million. The income tax revenue loss from this level of deduction is estimated at approximately \$2.4 million.

### **Exemption of estates from probate fees**

The bill's probate fee exemption does not appear to have any direct and readily discernible effect on state revenues and expenditures. Based on conversations that LSC fiscal staff had with certain probate judges, it does not appear that, generally speaking, the number of estates potentially exempted in any affected probate court from paying certain court service fees will be very large in any given year. Assuming that were true, it seems unlikely that the magnitude of probate court service fees lost in any affected county will exceed minimal on an ongoing basis. For the purposes of this fiscal analysis, "minimal" means an estimated revenue loss of no more than \$5,000 for any affected county per year. The bill's fee exemption provision does not appear to directly affect the annual operating expenses of any county, in particular those of the probate division of the court of common pleas.

### **Expired license exemptions—National Guard and reserve members**

Requiring state licensing boards and political subdivisions involved with professional or occupational licensing to defer late fees and penalties for National Guard or reserve members for up to six months after military service is completed might result in some foregone late fee revenue. It would depend on the number of licensees who fit into this category.

### **State Bureau of Motor Vehicles Fund (Fund 4W4)**

The bill allows any person who has been awarded the Purple Heart to be issued Purple Heart license plates at no charge. Depending on the number of Purple Heart license plates issued in a given year, there would likely be a loss in related registration fee revenues deposited in the state treasury to the credit of the State Bureau of Motor Vehicles Fund (Fund 4W4). The magnitude of that likely annual revenue loss is, as of this writing, uncertain.

### **State Highway Safety Fund (Fund 036)**

Under current law, an \$11 fee is added to every vehicle registration and subsequent to its collection is forwarded for deposit in the state treasury to the credit of the State Highway Safety Fund (Fund 036). Under the bill, a person being issued Purple Heart license plates would not pay this \$11 fee. Depending on the number of Purple Heart license plates issued in a given year, there would likely be a loss in related registration fee revenues credited to Fund 036. The magnitude of that likely annual revenue loss is, as of this writing, uncertain.

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<sup>7</sup> This number includes only the retirees from the state public systems. There could be many military retirees employed in the private sector, and were able to use the service credits towards their retirement. LSC could not obtain any data on this segment.

This fee, which became effective January 1, 2004, is imposed for the purpose of defraying the Department of Public Safety's costs associated with the administration and enforcement of motor vehicle and traffic laws.

### **Local permissive motor vehicle license taxes**

The bill's provision that allows a person who has been awarded the Purple Heart to apply for a Purple Heart license plate at no charge means that person will not have to pay any permissive local motor vehicle license taxes. The total permissive tax levy paid by a person cannot exceed \$20 per taxing district (the combination of all county, municipality, and township levies). Thus, as a result of the bill, it is likely that some taxing districts will lose motor vehicle license tax revenues that would otherwise have been collected. The magnitude of that likely annual revenue loss for any affected taxing district (county, municipality, or township) is, as of this writing, uncertain.

Under current law, a county, municipality, or township is permitted to levy local motor vehicle license taxes for the purpose of planning, construction, and maintenance of public highways, roads, streets, or bridges. Counties have the authority to enact up to \$15 in motor vehicle license taxes in three separate increments of \$5 each. If the county has not enacted a motor vehicle license tax, then the municipality has the authority to enact up to \$20 in motor vehicle license taxes in four separate increments of \$5 each. Townships may levy an additional \$5 motor vehicle license tax, regardless of any action by the county. The total permissive tax levy, however, paid by a person cannot exceed \$20 per taxing district (the combination of all county, municipality, and township levies). In 2006, the average permissive local tax per vehicle registration was \$14.02. Counties and municipalities were first permitted to levy motor vehicle license taxes in 1967; townships were similarly authorized in 1987.

### **Ohio Civil Rights Commission**

#### **Duties under the bill**

**Investigation of complaints.** The bill prohibits discrimination on the basis of military status. As is the case under current law, if discrimination on the basis of military status were to occur, then the party that was discriminated against can file a civil action in: (1) a court of common pleas, municipal court, or county court as appropriate, or (2) the Court of Claims if the matter involves an agency of the state of Ohio. A complaint alleging discrimination may also be filed with the Ohio Civil Rights Commission.

If a complaint is filed with the Commission, it is required to investigate the alleged discrimination to determine whether or not there is probable cause that discrimination occurred. If so, the Commission is required to engage in a conciliation process between the two parties. If conciliation fails, then the case goes before an administrative law judge in a court of common pleas. The Commission's costs will be a function of the merits and complexity of the case.

**Related duties.** In addition to permitting complaints to be filed, or civil actions to be brought, alleging discrimination on the basis of military status, the bill:

- Requires the Commission to make periodic surveys of the existence and effect of discrimination because of military status on the enjoyment of civil rights by persons in Ohio.
- Requires the Commission to prepare a comprehensive educational program, in cooperation with the Department of Education, for Ohio residents and the students in Ohio public schools.
- Requires the Commission to receive affirmative action employment and housing accommodation program reports relative to persons of military status and to issue an annual report on those program reports to the General Assembly.
- Permits the Commission to 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.
- Permits the Commission to 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.

Under current law, the Commission is already required or authorized to perform this above-noted list of duties relative to discrimination on the basis of race, color, religion, sex, familial status, national origin, disability, age, or ancestry.

### **Estimated costs**

The staff of the Commission's Office of Public Affairs has provided LSC fiscal staff with the following information relative to its duties under the bill.

- Although it is difficult to assess the number of new charges that will be filed alleging discrimination on the basis of military status, it is likely that additional personnel will be required to conduct investigations based upon these charges.
- According to information provided by Commission staff, the Ohio branch of the Employer Support of the Guard and Reserve, which is a staff group within the office of the Assistant Secretary of Defense for Reserve Affairs, received complaints from 74 members of the Ohio National Guard and Reserve alleging violations of the Uniformed Services Employment and Reemployment Rights Act.
- By comparison, a Commission investigator currently processes approximately 85 cases annually. The average cost of employing an investigator (including both salary and benefits) is \$59,186 annually. The Commission believes that, based on the potential number of additional cases, it will need to hire at least one new investigator.
- Unlike the majority of other charges investigated by the Commission for which it receives moneys under work-sharing agreements with the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development (HUD), the Commission would not receive federal funding for investigating charges alleging discrimination on the basis of military status. This is because military status is not a federally recognized protected class under Title VII of the Civil Rights Act of 1964 or Title VIII of

the Fair Housing Act of 1968. The only other viable financing mechanism for the costs associated with these military status-related duties would be the General Revenue Fund.

- The addition of military status as a protected class under the Ohio Civil Rights Act will require the Commission to alter or replace existing brochures, posters, and other materials made available to the public in order to raise awareness and educate the public about their rights under the new provision. This is likely to be a one-time cost of up to \$20,000.

### **Civil actions filed in courts of common pleas, municipal courts, and county courts**

As a result of the bill, it is possible that additional civil actions alleging discrimination, in this case based on a person's military status, will be filed in various courts of common pleas, municipal courts, and county courts around the state. As of this writing, the number of those additional civil actions that might be filed statewide, or even in a given local jurisdiction, is uncertain. Thus, the effect on the bill of any given court's workload and associated annual operating expenses is also uncertain.

### **Office of the Attorney General**

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. If an additional staff person were hired to perform those duties, it would be as a complaint specialist at an annual cost in salary and benefits of between \$47,600 and \$61,500. Presumably, those annual costs would be covered by funds appropriated from the GRF, the Consumer Protection Enforcement Fund (Fund 631), or some mix of both revenue streams.

### **Military experience to fulfill continuing education requirements**

The bill requires a state licensing agency to consider relevant education, training, or service completed by a licensee as a member of the United States Armed Forces, reserve components, the Ohio National Guard, the Ohio Military Reserve, or the Ohio Naval Militia in determining whether a licensee has fulfilled required continuing education. It does not appear as if this will have a direct fiscal effect on the state or local governments.

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