



Sub. H.B. 2

126th General Assembly
(As Passed by the General Assembly)

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

Sens. Carey, Amstutz, Padgett, Gardner, Niehaus, Clancy, Roberts, Wilson, Goodman, Austria, Brady, Cates, Dann, Fedor, Grendell, Harris, Jordan, Mallory, Miller, Mumper, Prentiss, Schuler, Schuring, Hagan, Zurz, Fingerhut, Wachtmann, Coughlin, Armbruster, Hottinger, Jacobson, Spada

Effective date: *

ACT 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.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- 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.
- Provides that if the amount to be paid under a tax installment contract between the Tax Commissioner and a service member who receives a filing and payment extension is \$2,400 or less, the contract cannot be longer than 12 months; if the amount is more than \$2,400, it cannot be longer than 24 months.
- 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 prior and continuing law

Continuing law that is modified by the act grants an income tax filing and payment extension, generally upon application (see below), to certain National Guard members and members of a reserve component of the United States Armed Forces. Formerly, the extension was available to service members who were called to active or "other" duty under Operation Iraqi Freedom. Under the 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 in the act

Expanded eligibility, spouses, and installments. The act *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. 5747.026(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. 5747.026(A), (B), and (D)). Further, the act provides that, even if a service 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. 5747.026(C)(1)). Finally, the act provides that if the amount owed is \$2,400 or less, the installment contract with the Commissioner cannot be longer than 12 months; if the amount owed is more than \$2,400, it cannot be longer than 24 months (R.C. 5747.026(B)(1)).

Interest penalties, rules, and application. Ongoing 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 act specifies that *interest penalties* also generally cannot be required during the extension period. (R.C. 5747.026(B)(3) and (C)(2)(b).)

Former law *required* 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 act instead *authorizes* the Tax Commissioner to adopt the rules. (R.C. 5747.026(E).)

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.

Finally, the act'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)).

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

Continuing 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 act).

The act 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).

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
Reported, S. Finance & Financial Institutions	05-17-05	p. 516
Passed Senate (32-0)	05-17-05	pp. 517-521
House concurred in Senate amendments (96-1)	05-24-05	pp. 869-871

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