

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	(1) Potential increase for cases in which the plaintiff receives favorable judgment; (2) Potential increase in court costs due to increased caseloads	(1) Potential increase for cases in which the plaintiff receives favorable judgment; (2) Potential increase in court costs due to increased caseloads	(1) Potential increase for cases in which the plaintiff receives favorable judgment; (2) Potential increase in court costs due to increased caseloads

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

- The bill allows the court to award to a plaintiff, who prevails in any action or proceeding to enforce such a reinstatement or reemployment right, reasonable attorney's fees, expert witness fees, and other litigation expenses.
- The bill codifies the provisions of USERRA into state law. Under the bill, county courts of common pleas have jurisdiction for such cases unless the defendant is the state. This could result in a potential increase in court costs for any increase in caseload.

Detailed Fiscal Analysis

Background

The bill applies the provisions of the Federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) into state law. Section 4301 of USERRA states that the Act's purpose is to "encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment that can result from such service, to minimize the disruption to the lives of persons performing services in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of service, and to prohibit discrimination against persons because of their service in the uniformed services."

Changes in the bill

The application of USERRA to state law could allow individuals to seek remedy in either a court of common pleas or the court of claims. Currently, any such cases would be heard in federal court. In instances where the state is the defendant, the court of claims would have jurisdiction. Courts of common pleas have jurisdiction in other cases. Should a plaintiff in such a case receive favorable judgment, the bill allows the court to award to the plaintiff reasonable attorney's fees, expert witness fees, and other litigation expenses. Additionally, the bill also prohibits the court from requiring the plaintiff to reimburse the state for any attorney's fees should the plaintiff not receive favorable judgment in the case. Additionally, the bill requires all such cases to be given priority on a court's docket.

Fiscal impact

The remedies contained in the bill are no different than what currently exist in USERRA. However, currently, the process for hearing such cases in federal court is lengthy due to the volume of cases of federal court dockets. Because of this, some individuals opt not to pursue a case. Therefore, the bill could potentially increase the likelihood that such a case will be heard. If so, there could be several resulting costs. First, there could be an increase in costs to both the court of claims and to county courts of common pleas due to both increased caseloads, and any administrative costs for giving such cases priority on the courts' dockets. Secondly, in cases involving state or county employees, the involved governmental entity could be required to pay the remedies specified above for any cases in which favorable judgment is found for the plaintiff. With respect to the state, the bill prohibits the court of claims from requiring the plaintiff to pay attorney's fees when favorable judgment is not found. It is not known how many additional cases could result from the bill, but given the combination of potential fiscal effects, it would be reasonable to assume that local governments might incur new costs.

LSC fiscal staff: Terry Steele, Budget Analyst

SB0176IN/lb