~~Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

June 2, 2016

**H. 5119**

Introduced by Reps. Goldfinch, Putnam, Clemmons, Quinn, Fry, H.A. Crawford, Johnson, Burns, Collins, Merrill, Yow, Hamilton, McCoy, Jordan, Robinson‑Simpson, Finlay, Kennedy, Spires, Ballentine, Bannister, Bedingfield, R.L. Brown, Delleney, Dillard, Duckworth, Felder, Funderburk, Gambrell, Hardee, Henderson, Hill, Lowe, Lucas, D.C. Moss, Nanney, Pitts, Ryhal, Sandifer, G.R. Smith, J.E. Smith, Stringer, Toole, Williams and Willis

S. Printed 6/2/16--S.

Read the first time April 28, 2016.

**A** **BILL**

TO AMEND SECTION 12‑6‑1140, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEDUCTIONS FROM INDIVIDUAL TAXABLE INCOME, SO AS TO REQUIRE A MEMBER OF THE STATE GUARD TO COMPLETE A MINIMUM OF ONE HUNDRED NINETY‑TWO HOURS OF TRAINING OR DRILL EACH YEAR IN ORDER TO QUALIFY FOR THE DEDUCTION; TO AMEND SECTION 25‑1‑635, AS AMENDED, RELATING TO LEGAL ASSISTANCE SERVICES FOR GUARD MEMBERS AND IMMEDIATE FAMILY MEMBERS, SO AS TO AUTHORIZE SOUTH CAROLINA STATE GUARD JUDGE ADVOCATES TO PROVIDE THESE SERVICES AND TO INCLUDE THEM WITHIN THE PERSONAL LIABILITY EXEMPTION; TO AMEND SECTIONS 25‑3‑20 AND 25‑3‑130, BOTH RELATING TO THE GOVERNOR’S AUTHORITY TO CALL THE STATE GUARD INTO DUTY, SO AS TO CLARIFY THE CIRCUMSTANCES AUTHORIZING THE GOVERNOR TO CALL THE STATE GUARD INTO DUTY AND TO PROVIDE THAT CIRCUMSTANCES INVOLVING A NATURAL OR MANMADE DISASTER, EMERGENCY, OR EMERGENCY PREPAREDNESS MAY WARRANT CALLING THE STATE GUARD INTO SERVICE; AND TO AMEND SECTION 25‑3‑140, RELATING TO PAY OF STATE GUARD MEMBERS ON ACTIVE DUTY, SO AS TO PROVIDE THAT STATE GUARD MEMBERS MAY RECEIVE A DAILY STIPEND OR PER DIEM PAY FOR REASONABLE EXPENSES, OR BOTH, IF APPROVED BY THE ADJUTANT GENERAL.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12‑6‑1140(10)(c)(iv) of the 1976 Code is amended to read:

“(iv) In the case of a member of the State Guard and in lieu of minimum points determining eligibility, this deduction is allowed only if the State Guard member completes a minimum of ~~sixteen~~ one hundred ninety‑two hours of training or drill ~~each month, equating to one hundred ninety‑two hours~~ a year, and the member’s commanding officer certifies in writing to the member that the member met these requirements.”

SECTION 2. Section 25‑1‑635(A) of the 1976 Code is amended to read:

“(A) For purposes of enhancing the readiness of national guard personnel for mobilization or call up for state or federal service, legal assistance attorneys, which may include South Carolina State Guard judge advocates, and judge advocates of the South Carolina National Guard who provide premobilization legal assistance and counseling to national guard personnel may also provide legal assistance and counseling to the immediate family members and dependents of members of the South Carolina National Guard when, in the opinion of the legal assistance, attorney or judge advocate, the legal assistant and counseling provided enhances the overall mobilization readiness of a member of the national guard who has an obligation to provide for his family and dependents in his absence in the event of his mobilization.”

SECTION 3. Section 25‑1‑635(I) of the 1976 Code, as last amended by Act 46 of 2011, is further amended to read:

“(I) Services provided in the legal assistance program are considered an official function of the national guard and must be provided at no cost to eligible personnel. Legal assistance attorneys, national guard personnel, South Carolina State Guard judge advocates, and civilian employees acting within the scope of their official duties, are exempt from personal liability for alleged negligent or wrongful acts, omissions for service, or advice rendered pursuant to the legal assistance program, so long as the attorneys, personnel, or employees neither requested nor received a fee or compensation other than their regular compensation for legal services provided to persons eligible for assistance under this section.”

SECTION 4. Section 25‑3‑20 of the 1976 Code is amended to read:

“Section 25‑3‑20. Whenever ~~any~~ a part of the national guard of this State is ordered into federal service or is otherwise tasked with duties that cause ~~so as to cause~~ the State to be, in the opinion of the Governor, without proper defense or sufficient military resources, the Governor may call the South Carolina State Guard into state duty.”

SECTION 5. Section 25‑3‑130 of the 1976 Code is amended to read:

“Section 25‑3‑130. The Governor may, in case of insurrection, invasion, tumult, riot, breach of the peace or imminent danger ~~thereof~~ of a breach, a natural or manmade disaster or local emergency whenever the lives and property of the state’s citizens are threatened, emergency preparedness, or to enforce the laws of this State, order into service any part of the South Carolina State Guard that ~~he may deem~~ the Governor deems necessary. When the South Carolina State Guard is on active service, the commanding officer and his subordinates ~~shall~~ must be~~, and they are hereby,~~ invested with all the authority of~~,~~ sheriffs and deputy sheriffs in enforcing the laws of this State.”

SECTION 6. Section 25‑3‑140 of the 1976 Code is amended to read:

“Section 25‑3‑140. When members of the South Carolina State Guard are ordered to active duty by the Governor or by ~~his~~ the Governor’s authority, they ~~shall~~ may receive ~~the pay as specified for officers and enlisted men of the national guard~~ a daily stipend or a per diem for reasonable expenses, or both, if approved by the Adjutant General, when called out for ~~such~~ that service.”

SECTION 7. Section 12-6-1140(10)(a) of the 1976 Code is amended to read:

“(10)(a) A deduction calculated as provided in this item for a volunteer firefighter, rescue squad member, volunteer member of a Hazardous Materials (HAZMAT) Response Team, reserve police officer, Department of Natural Resources deputy enforcement officer, a member of the State Guard, the Joint Service Detachment, or a volunteer state constable appointed pursuant to Section 23‑1‑60 for the purpose of assisting named law enforcement agencies and who has been designated by the State Law Enforcement Division as a state constable not otherwise eligible for this exemption.”

SECTION 8. This act takes effect upon approval by the Governor.

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