

BILL ANALYSIS

C.S.H.B. 3361

By: Corte

Defense Affairs and State-Federal Relations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When state employees are called to active military duty, they may experience reduction in pay and benefits. Such a reduction can be especially difficult during long-term activations. As an interim measure, the Governor encouraged state agencies and institutions of higher education to use emergency leave to make up the difference between military pay and state pay if the employee experienced a reduction. Many agencies and institutions of higher education have already voluntarily implemented these practices in response to the letter from the Governor.

HB 3361 provides agencies and institutions of higher education the ability to keep employees' salaries "whole" by using state pay (in the form of emergency leave) to offset a loss in pay that employees may experience when they are called to active duty. This bill also proposes to allow public employees to use paid leave while on active duty so that they can continue to receive benefits and accrue state service credit.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency or institution.

ANALYSIS

SECTION 1 clarifies that public sector employees are entitled to a paid leave of absence if they are members of state military forces or a reserve component of the armed forces and are called to active duty. The bill more clearly designates the paid leave of absence entitlement is for no more than 15 work days. HB 3361 also acknowledges that, unlike service credit and leave accrual, an employee's salary is not protected during this period.

SECTION 2 deletes specific references to the National Guard and clarifies that all members of the state's military forces are included in the meaning of Section 431.005(a) of the Government Code. The bill describes the entitlement for members of the state military forces when activated by the governor.

SECTION 3 requires state agencies to provide employees who are activated as members of the reserve component of the armed forces the balance of their state compensatory time. This SECTION also requires state agencies to accommodate the employees' use of state compensatory time before it expires. Such action will allow employees to use state compensatory time in a manner discussed in SECTION 5.

SECTION 4 limits the paid leave entitlement for members of the state military forces to only those who are called to state active duty by the governor. Further, the bill limits this paid leave entitlement to only those employees paid by state funds.

SECTION 5. This SECTION:

1. Identifies the authority for a call to active duty during a national emergency as Title 10 or Title 32 of United States Code. Title 10 of the United States Code is applicable to reserve component and state military forces federally activated for duty worldwide. Title 32 of the United States Code is only applicable to state military forces which are federally activated for duty in the continental United States.
1. Clarifies that members of the reserve component of the armed forces activated under this authority do not accrue vacation or sick leave as long as they are in an unpaid status.
2. Provides members activated under this authority the option of retaining their accrued vacation leave balance or using it, along with earned compensatory leave and overtime leave, to maintain benefits while on military duty.
3. Authorizes an employee activated for military service to use any combination of paid leave (except sick leave) to continue to accrue ERS retirement service credit.

SECTION 6. HB 3361 authorizes agency administrative heads to grant differential pay (in the form of emergency leave) to state employees on unpaid leave whose military gross pay is less than their state gross pay. The combination of differential pay and military gross pay may not exceed their state gross pay.

SECTION 7. This Act takes effect on September 1, 2003

COMPARISON OF SUBSTITUTE TO THE ORIGINAL

The substitute modifies the original version of the bill in that the substitute is a Legislative Council draft. Wording and section numbering changes are mostly stylistic or clarifications, rather than substantive. Section titles have also been added in the substitute version.

The substitute modifies the original version of the bill in SECTION 1 by making the provisions of Section 431.005 (c) applicable only to state employees.

The substitute modifies the original version of the bill in SECTION 5 to clarify that a state agency shall review various issues relating to health coverage with an employee who is leaving for military service.

The substitute modifies the original version of the bill by adding SECTION 7 which explicitly states that the effective date of the Act is September 1, 2003.