

AN ACT

relating to state employee military leave.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 431.005, Government Code, is amended to read as follows:

Sec. 431.005. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND EMPLOYEES. (a) Except as provided by Subsection (b), a [A] person who is an officer or employee of the state, a municipality, a county, or another political subdivision of the state and who is a member of the state military forces or a reserve component of the armed forces is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a federal fiscal year. During a leave of absence the person may not be subjected to loss of time, efficiency rating, or vacation time~~[, or salary]~~.

(b) A [~~Leaves of absence under Subsection (a) may not exceed 15 days in a federal fiscal year, except that a~~] member of the legislature is entitled to pay for all days that the member is absent from a session of the legislature and engaged in training and duty as provided by Subsection (a).

(c) A state employee who is a member of the state military forces or a reserve component of the armed forces and who is ordered to duty by proper authority is entitled, when relieved from duty, to

1 be restored to the position that the employee held when ordered to  
2 duty.

3 SECTION 2. Section 431.0825, Government Code, is amended to  
4 read as follows:

5 Sec. 431.0825. EMPLOYEES IN NATIONAL GUARD; EMERGENCY  
6 LEAVE. A state employee called to state active duty as a member of  
7 the state military forces [~~National Guard~~] by the governor is  
8 entitled to receive paid emergency leave without loss of military  
9 leave under Section 431.005(a) or annual leave.

10 SECTION 3. Section 659.023, Government Code, is amended by  
11 adding Subsection (c) to read as follows:

12 (c) A state agency shall:

13 (1) provide an employee activated to military service  
14 as a member of the reserve component of the armed forces with a  
15 statement containing the balance of the employee's accrued state  
16 compensatory time; and

17 (2) accommodate an employee's request to use the  
18 balance of the employee's accrued state compensatory time before  
19 the compensatory time expires.

20 SECTION 4. Section 661.903, Government Code, is amended to  
21 read as follows:

22 Sec. 661.903. NATIONAL GUARD EMERGENCY. A state employee  
23 who is called to state active duty as a member of the state military  
24 forces [~~Texas National Guard~~] by the governor because of an  
25 emergency is entitled to a leave of absence without a deduction in  
26 salary in accordance with Section 431.0825. A state employee who is  
27 called to federal active duty as a member of the state military

1 forces may not receive the employee's state salary except as  
2 provided by Sections 661.904(d) and (f) and 661.9041.

3 SECTION 5. Section 661.904, Government Code, is amended to  
4 read as follows:

5 Sec. 661.904. MILITARY LEAVE DURING NATIONAL EMERGENCY.

6 (a) An employee called to active duty during a national emergency  
7 to serve in a reserve component of the armed forces of the United  
8 States under Title 10 or 32, United States Code, is entitled to an  
9 unpaid leave of absence.

10 (b) The employee continues to accrue state service credit  
11 for purposes of longevity pay while on military duty described by  
12 Subsection (a) but does not accrue vacation or sick leave during an  
13 unpaid leave of absence [~~that time~~].

14 (c) The employee may retain [~~retains~~] any accrued vacation  
15 or sick leave and is entitled to be credited with those balances on  
16 return to state employment from military duty described by  
17 Subsection (a). Leave earned while in a state-paid status is  
18 credited to the employee's balance when the employee returns to  
19 active state employment.

20 (d) The employee may use any accrued vacation leave, earned  
21 compensatory leave, or overtime leave under the federal Fair Labor  
22 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended,  
23 in whole or in part, to maintain benefits for the employee or the  
24 employee's dependents while the employee is on military duty  
25 described by Subsection (a).

26 (e) Before a state employee leaves for military service, the  
27 state agency employing the employee shall review with the employee

1 any issues relating to maintaining state health insurance coverage  
2 during the employee's military duty, including what the employee  
3 needs to do to maintain state health insurance coverage, how health  
4 insurance coverage is affected by paid or unpaid leave, and how to  
5 pay any premium required for the insurance coverage.

6 (f) A state employee activated for military service may  
7 continue to accrue service credit with the Employees Retirement  
8 System of Texas by receiving at least one hour of state pay during  
9 each month of active military service. The employee may use any  
10 combination of paid leave, including state compensatory leave,  
11 overtime leave under the federal Fair Labor Standards Act of 1938  
12 (29 U.S.C. Section 201 et seq.), as amended, annual leave, military  
13 leave, or approved agency differential pay, to qualify for the  
14 state pay.

15 SECTION 6. Subchapter Z, Chapter 661, Government Code, is  
16 amended by adding Section 661.9041 to read as follows:

17 Sec. 661.9041. DIFFERENTIAL PAY. The administrative head  
18 of a state agency shall grant sufficient emergency leave as  
19 differential pay to a state employee on unpaid military leave if the  
20 employee's military gross pay is less than the employee's state  
21 gross pay. The combination of emergency leave and military pay may  
22 not exceed the employee's actual state gross pay.

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

S.B. No. 1800

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1800 passed the Senate on May 6, 2003, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1800 passed the House on May 10, 2003, by a non-record vote.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor