

By: Van de Putte

S.B. No. 1800

A BILL TO BE ENTITLED

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.