

1-1 By: Van de Putte S.B. No. 1800
1-2 (In the Senate - Filed March 14, 2003; March 24, 2003, read
1-3 first time and referred to Committee on Veteran Affairs and
1-4 Military Installations; April 29, 2003, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 3, Nays
1-6 0; April 29, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1800 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to state employee military leave.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 431.005, Government Code, is amended to
1-13 read as follows:

1-14 Sec. 431.005. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND
1-15 EMPLOYEES. (a) Except as provided by Subsection (b), a [A] person
1-16 who is an officer or employee of the state, a municipality, a
1-17 county, or another political subdivision of the state and who is a
1-18 member of the state military forces or a reserve component of the
1-19 armed forces is entitled to a paid leave of absence from the
1-20 person's duties on a day on which the person is engaged in
1-21 authorized training or duty ordered or authorized by proper
1-22 authority for not more than 15 workdays in a federal fiscal year.
1-23 During a leave of absence the person may not be subjected to loss of
1-24 time, efficiency rating, or vacation time[, or salary].

1-25 (b) A [Leaves of absence under Subsection (a) may not exceed
1-26 15 days in a federal fiscal year, except that a] member of the
1-27 legislature is entitled to pay for all days that the member is
1-28 absent from a session of the legislature and engaged in training and
1-29 duty as provided by Subsection (a).

1-30 (c) A state employee who is a member of the state military
1-31 forces or a reserve component of the armed forces and who is ordered
1-32 to duty by proper authority is entitled, when relieved from duty, to
1-33 be restored to the position that the employee held when ordered to
1-34 duty.

1-35 SECTION 2. Section 431.0825, Government Code, is amended to
1-36 read as follows:

1-37 Sec. 431.0825. EMPLOYEES IN NATIONAL GUARD; EMERGENCY
1-38 LEAVE. A state employee called to state active duty as a member of
1-39 the state military forces [National Guard] by the governor is
1-40 entitled to receive paid emergency leave without loss of military
1-41 leave under Section 431.005(a) or annual leave.

1-42 SECTION 3. Section 659.023, Government Code, is amended by
1-43 adding Subsection (c) to read as follows:

1-44 (c) A state agency shall:

1-45 (1) provide an employee activated to military service
1-46 as a member of the reserve component of the armed forces with a
1-47 statement containing the balance of the employee's accrued state
1-48 compensatory time; and

1-49 (2) accommodate an employee's request to use the
1-50 balance of the employee's accrued state compensatory time before
1-51 the compensatory time expires.

1-52 SECTION 4. Section 661.903, Government Code, is amended to
1-53 read as follows:

1-54 Sec. 661.903. NATIONAL GUARD EMERGENCY. A state employee
1-55 who is called to state active duty as a member of the state military
1-56 forces [Texas National Guard] by the governor because of an
1-57 emergency is entitled to a leave of absence without a deduction in
1-58 salary in accordance with Section 431.0825. A state employee who is
1-59 called to federal active duty as a member of the state military
1-60 forces may not receive the employee's state salary except as
1-61 provided by Sections 661.904(d) and (f) and 661.9041.

1-62 SECTION 5. Section 661.904, Government Code, is amended to
1-63 read as follows:

2-1 Sec. 661.904. MILITARY LEAVE DURING NATIONAL EMERGENCY.
2-2 (a) An employee called to active duty during a national emergency
2-3 to serve in a reserve component of the armed forces of the United
2-4 States under Title 10 or 32, United States Code, is entitled to an
2-5 unpaid leave of absence.

2-6 (b) The employee continues to accrue state service credit
2-7 for purposes of longevity pay while on military duty described by
2-8 Subsection (a) but does not accrue vacation or sick leave during an
2-9 unpaid leave of absence [~~that time~~].

2-10 (c) The employee may retain [~~retains~~] any accrued vacation
2-11 or sick leave and is entitled to be credited with those balances on
2-12 return to state employment from military duty described by
2-13 Subsection (a). Leave earned while in a state-paid status is
2-14 credited to the employee's balance when the employee returns to
2-15 active state employment.

2-16 (d) The employee may use any accrued vacation leave, earned
2-17 compensatory leave, or overtime leave under the federal Fair Labor
2-18 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended,
2-19 in whole or in part, to maintain benefits for the employee or the
2-20 employee's dependents while the employee is on military duty
2-21 described by Subsection (a).

2-22 (e) Before a state employee leaves for military service, the
2-23 state agency employing the employee shall review with the employee
2-24 any issues relating to maintaining state health insurance coverage
2-25 during the employee's military duty, including what the employee
2-26 needs to do to maintain state health insurance coverage, how health
2-27 insurance coverage is affected by paid or unpaid leave, and how to
2-28 pay any premium required for the insurance coverage.

2-29 (f) A state employee activated for military service may
2-30 continue to accrue service credit with the Employees Retirement
2-31 System of Texas by receiving at least one hour of state pay during
2-32 each month of active military service. The employee may use any
2-33 combination of paid leave, including state compensatory leave,
2-34 overtime leave under the federal Fair Labor Standards Act of 1938
2-35 (29 U.S.C. Section 201 et seq.), as amended, annual leave, military
2-36 leave, or approved agency differential pay, to qualify for the
2-37 state pay.

2-38 SECTION 6. Subchapter Z, Chapter 661, Government Code, is
2-39 amended by adding Section 661.9041 to read as follows:

2-40 Sec. 661.9041. DIFFERENTIAL PAY. The administrative head
2-41 of a state agency shall grant sufficient emergency leave as
2-42 differential pay to a state employee on unpaid military leave if the
2-43 employee's military gross pay is less than the employee's state
2-44 gross pay. The combination of emergency leave and military pay may
2-45 not exceed the employee's actual state gross pay.

2-46 SECTION 7. This Act takes effect September 1, 2003.

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