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By:  Blanco S.B. No. 1128

A BILL TO BE ENTITLED

AN ACT

relating to the service of and certain benefits for members of the Texas military forces, including tuition assistance at postsecondary educational institutions.

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

SECTION 1.  This Act shall be known as The Texas Guardsman Bill of Rights.

SECTION 2.  Section 437.005, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  If the governor or adjutant general activates the Texas National Guard to state active duty, the order activating the Texas National Guard must include a defined end date for the activation.

SECTION 3.  Subchapter A, Chapter 437, Government Code, is amended by adding Section 437.0051 to read as follows:

Sec. 437.0051.  DWELL TIME REQUIREMENTS. (a) In this section:

(1)  "Dwell time" means the period that a service member spends in the service member's home station between activations.

(2)  "Long-term state active duty" means state active duty that lasts longer than 270 days.

(b)  Except as provided by Subsection (c), the governor or adjutant general may not activate a member of the Texas military forces to long-term state active duty unless the member has been given dwell time as follows:

(1)  the time required by federal law;

(2)  12 months for a member of the state military forces who has served for more than 270 consecutive days on:

(A)  state active duty; or

(B)  active duty under Title 10 or Title 32, United States Code;

(3)  12 months from the date of completion of initial entry training for a member who has completed the member's initial entry training; or

(4)  24 months for a member of the state military forces who has had consecutive activations under the authority of any of the following:

(A)  Title 10, United States Code;

(B)  Title 32, United States Code; or

(C)  Section 437.005.

(c)  A member of the Texas military forces may be activated for long-term state active duty before the expiration of the dwell time required by this section if the member voluntarily waives the requirement.

SECTION 4.  Subchapter E, Chapter 437, Government Code, is amended by adding Sections 437.2125, 437.2126, 437.2127, and 437.2128 to read as follows:

Sec. 437.2125.  MATERNITY CONVALESCENT LEAVE. (a) A service member of the Texas military forces serving on state active duty who becomes a parent after a qualifying birth event, as defined by rule of the adjutant general, is entitled to not more than six weeks of maternity convalescent leave equivalent to the maternity convalescent leave provided under the federal Military Parental Leave Program. Leave taken under this subsection does not count against the service member's leave balance. A service member entitled to leave under this subsection may request the leave for a period of less than six weeks.

(b)  A service member may request an extension of the maternity convalescent leave provided under Subsection (a) for an additional period not to exceed six weeks if:

(1)  the service member's medical provider submits a written recommendation for the extension;

(2)  the additional leave is necessary to address a diagnosed medical condition; and

(3)  the service member's commanding officer approves the extension.

(c)  Leave granted under this section must be taken immediately after a qualifying birth event, beginning on the first full day after the date the service member is discharged or released from the hospital or facility where the birth occurred. The leave may only be taken in one increment.

(d)  A service member may take leave under this section consecutively with other leave, including primary or secondary caregiver leave under Section 437.2126 or 437.2127. The service member must take leave under this section before taking other leave.

(e)  A service member may not transfer leave under this section to another service member.

(f)  A service member forfeits leave granted under this section on separation from active service.

(g)  A commanding officer may not disapprove a request for leave under Subsection (a).

Sec. 437.2126.  PRIMARY CAREGIVER LEAVE. (a) A service member of the Texas military forces serving on state active duty who is designated as a primary caregiver in connection with a qualifying birth event, as defined by adjutant general rule, or adoption is entitled to not more than six weeks of primary caregiver leave equivalent to the primary caregiver leave provided under the federal Military Parental Leave Program. Leave taken under this subsection does not count against the service member's leave balance.

(b)  A service member entitled to leave under this section may request the leave for a period of less than six weeks.

Sec. 437.2127.  SECONDARY CAREGIVER LEAVE. (a) A service member of the Texas military forces serving on state active duty who is designated as a secondary caregiver in connection with a qualifying birth event, as defined by adjutant general rule, or adoption is entitled to not more than three weeks of secondary caregiver leave equivalent to the secondary caregiver leave provided under the federal Military Parental Leave Program. Leave taken under this subsection does not count against the service member's leave balance.

(b)  A service member entitled to leave under this section may request the leave for a period of less than three weeks.

Sec. 437.2128.  PROVISIONS APPLICABLE TO PRIMARY AND SECONDARY CAREGIVER LEAVE. (a) The amount of leave a service member is granted under Section 437.2126 or 437.2127 is reduced by one day for each day that maternity convalescent leave is extended for the service member under Section 437.2125(b).

(b)  Leave granted under Section 437.2126 or 437.2127 must begin before the first anniversary of the date of the qualifying birth event or adoption. The leave may only be taken in one increment.

(c)  A service member may take leave under Section 437.2126 or 437.2127 consecutively with other leave, including maternity convalescent leave under Section 437.2125. The service member is required to take leave under those sections after maternity convalescent leave under Section 437.2125 and before any other type of leave.

(d)  A service member may not transfer leave under Section 437.2126 or 437.2127 to another service member. A service member may not take leave under those sections consecutively with other leave taken immediately before separation or retirement from service or consecutively with an administratively authorized absence of duty.

(e)  A service member is not entitled to leave under Section 437.2126 or 437.2127 for:

(1)  a qualifying birth event in which the child is placed for adoption with another person; or

(2)  a qualifying birth event or adoption of a child for whom the designated secondary caregiver's parental rights are terminated.

(f)  Leave granted under Section 437.2126 or 437.2127 terminates on the death of the child. A service member who is eligible for leave under those sections whose child dies while the service member is on the leave may be transitioned to emergency leave that counts against the service member's leave balance.

(g)  A service member who separates from active state service forfeits leave granted under Section 437.2126 or 437.2127.

SECTION 5.  Sections 437.226(c), (d), (e), (f), (g), and (i), Government Code, are amended to read as follows:

(c)  The adjutant general shall grant assistance for tuition and mandatory fees under this section to eligible service members, in an amount not to exceed the amount provided in the General Appropriations Act. The adjutant general may apportion the number of assistance awards among the components of the Texas military forces necessary to meet the recruitment and retention needs of those components. The number of assistance awards made to members of the Texas State Guard may not exceed 45 [~~30~~] for any semester or term unless the adjutant general finds a compelling need for additional awards to members of the Texas State Guard.

(d)  Assistance for tuition and mandatory fees may be awarded under this section for tuition and mandatory fees charged for any undergraduate or graduate course for any semester or term at an institution of higher education or private or independent institution of higher education, including a vocational or technical course.

(e)  A service member may not receive assistance for tuition under this section for more than 15 [~~12~~] semester credit hours in any semester or term.

(f)  A service member may not receive assistance for tuition and mandatory fees under this section for more than 5 academic years or 15 [~~10~~] semesters or terms, whichever occurs first for the service member.

(g)  Before each semester or term, the department must certify to the appropriate public and private institutions of higher education a list of the service members to whom the adjutant general has awarded assistance for tuition and mandatory fees under this section for that semester or term. The amount of assistance awarded by the adjutant general under this section may not exceed the amount of money available to fund the assistance awards.

(i)  From money appropriated for purposes of this section, the department shall authorize the comptroller to make a grant to a service member attending a private or independent institution of higher education to whom the adjutant general has awarded assistance for tuition and mandatory fees for the semester or term under this section. The amount of a grant under this subsection is an amount equal to the average amount of reimbursement the department estimates will be paid per student for the same semester or term under Subsection (h).

SECTION 6.  Sections 54.345(b) and (c), Education Code, are amended to read as follows:

(b)  An institution of higher education shall exempt a person certified by the adjutant general as described by Subsection (a) from the payment of tuition for the semester credit hours for which the person enrolls, not to exceed 15 [~~12~~] semester credit hours. If the person is not charged tuition at the rate provided for other Texas residents, the amount of the exemption may not exceed the amount of tuition the person would be charged as a Texas resident for the number of semester credit hours for which the person enrolls, not to exceed 15 [~~12~~] semester credit hours.

(c)  An institution of higher education shall exempt a person who receives an exemption from tuition under Subsection (b) from the payment of all mandatory fees for any semester or term in which the person receives the tuition exemption.

SECTION 7.  The adjutant general shall adopt rules required by Sections 2 through 4 of this Act not later than January 1, 2024.

SECTION 8.  The changes in law made by Sections 2 through 4 of this Act apply only to an order to state active duty that is issued on or after the effective date of this Act. An order to state active duty that is issued before the effective date of this Act is governed by the law in effect on the date the order is issued, and the former law is continued in effect for that purpose.

SECTION 9.  Sections 5 and 6 of this Act apply beginning with the 2023 fall semester.

SECTION 10.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.