

BILL ANALYSIS

Senate Research Center
78R12491 MCK-D

C.S.S.B. 1800
By: Van de Putte
Veteran Affairs & Military Installations
4/27/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, state agencies and institutions of higher education do not have formalized practices relating to leave for employees who, as members of the state military forces or the reserve component of the armed forces, are called to active duty. C.S.S.B. 1800 establishes that state employees who are members of the state military forces or the reserve component of the armed forces are entitled to paid leave and certain benefit protections when they are called to active duty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 431.005, Government Code, as follows:

Sec. 431.005. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND EMPLOYEES.

(a) Specifies, except as provided by Subsection (b), that certain persons are entitled to paid leave, rather than leave. Specifies that the leave is for not more than 15 work days in a federal fiscal year. Deletes salary from the list of items prohibited from being lost during a leave of absence. Makes a nonsubstantive change.

(b) Deletes text referring to leaves of absence. Makes a nonsubstantive change.

(c) No change to this subsection.

SECTION 2. Amends Section 431.0825, Government Code, to entitle a state employee called to state active duty as a member of the state military forces, rather than the National Guard, by the governor to receive paid emergency leave without loss of military leave under Section 431.005(a), or annual leave.

SECTION 3. Amends Section 659.023, Government Code, by adding Subsection (c), to require a state agency to provide an employee activated to military services as a member of the reserve component of the armed forces with a statement containing the balance of the employee's accrued state compensatory time and accommodate an employee's request to use the balance of the employee's accrued state compensatory time before the compensatory time expires.

SECTION 4. Amends Section 661.903, Government Code, to entitle a state employee called to state active duty, rather than active duty, as a member of the state military forces, rather than the Texas National Guard, by the governor because of an emergency to receive a leave of absence without a deduction in salary, if paid by state funds, in accordance with Section 431.0825. Prohibit a state employee who is called to federal active duty as a member of the state military forces from receiving the employee's state salary except as provided by Sections 661.904(d) and (f) and 661.9041.

SECTION 5. Amends Section 661.904, Government Code, as follows:

Sec. 661.904. MILITARY LEAVE DURING NATIONAL EMERGENCY. (a)

Specifies that an employee called to active duty under Title 10 and Title 32 of the United States Code is entitled to unpaid leave.

(b) Provides that the employee does not accrue vacation or sick leave during an unpaid leave of absence, rather than during that time.

(c) Authorizes the employee to retain any accrued vacation or sick leave. Provides that leave earned while in a state paid status is credited to the employee's balance when the employee returns to active state employment.

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

(e) Requires the state agency employing the employee, before a state employee leaves for military service, to review with the employee any issues relating to maintaining state health insurance coverage during the employee's military duty, including how the employee maintains state health insurance coverage, how the coverage is affected by paid or unpaid leave, and how to pay any required premium.

(f) Authorizes the state employee activated for military service to continue to accrue Employee Retirement System retirement service credit by receiving a minimum of one hour of state pay during each month of active military service. Authorizes the employee to use any combination of paid leave or approved agency differential pay to qualify for state pay.

SECTION 6. Amends Subchapter Z, Chapter 661, Government Code, by adding Section 661.9041, as follows:

Section 661.9041. DIFFERENTIAL PAY. Requires the administrative head of a state agency to grant sufficient emergency leave as differential pay to a state employee on unpaid military leave if the employee's military gross pay is less than the employee's state gross pay. Prohibits the combination of emergency leave and military pay from exceeding the employee's actual state gross pay.

SECTION 7. Effective date: September 1, 2003.