



House of Representatives

General Assembly

File No. 174

January Session, 2005

House Bill No. 6565

House of Representatives, April 5, 2005

The Committee on Labor and Public Employees reported through REP. RYAN, K. of the 139th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT PROVIDING WORKERS' COMPENSATION BENEFITS FOR CONNECTICUT NATIONAL GUARD MEMBERS CALLED TO ACTIVE DUTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 27-67 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2005*):

3 The commanding officer of any officer, soldier or sailor wounded,
4 disabled or killed, when such disability or death is incident to the
5 service, shall immediately make or cause to be made, by one or more
6 officers detailed for the purpose, full inquiry and report concerning
7 such injury or death, in writing, through channels to the Adjutant
8 General, with the names and addresses of qualified witnesses and a
9 full statement of the testimony of each concerning the nature and
10 extent of the injury and the manner of its occurrence. Each member of
11 the armed forces of the state who, when on duty or assembled therefor,
12 in accordance with orders of competent authority, or when called in

13 aid of any civil authority, is injured or contracts any disease while in
14 the performance of his or her duty or assembly therefor, without fault
15 or neglect on his or her part, and thereby is temporarily or
16 permanently disabled from continuing to perform his or her usual
17 duties or occupation, shall, during the period of [his] disability, receive
18 [such compensation as may be determined consistent with] benefits in
19 accordance with the provisions of chapter 568. [and actual necessary
20 expenses for care and medical attendance. The Adjutant General may
21 cause examination of each claimant under the provisions of this section
22 to be made from time to time by a medical officer or officers
23 designated for the purpose by the Adjutant General, and he may direct
24 the removal of any claimant to and his treatment in a hospital
25 designated by the Adjutant General and, if the claimant refuses to
26 permit any such examination or if he refuses to go to such hospital or
27 to follow the direction of the Adjutant General or the treatment so
28 prescribed for him, he shall forfeit all right to any claim or allowance
29 under this section. The Adjutant General may appoint a medical
30 examiner or a board of three officers, at least one of whom shall be a
31 medical officer, to inquire into the merits of any claim, who shall fix
32 the amount to be allowed under this section. A medical examiner or
33 board, appointed under this section, shall have the same power to take
34 evidence, administer oaths, issue subpoenas and compel witnesses to
35 attend and testify and produce books and papers and to punish for
36 failure to do so as possessed by a general court-martial. The findings of
37 the medical examiner or board shall be subject to the approval of the
38 Adjutant General, who may return the proceedings of the medical
39 examiner or board for revision and for further testimony. The amount
40 found due any member by such medical examiner or board and
41 approved by the Adjutant General shall be paid by the Comptroller
42 upon the order of the Adjutant General. The Adjutant General may
43 disapprove the report of any medical examiner or board appointed
44 under the provisions of this section and may thereupon determine the
45 amount of any such claim. He may, upon the application of any
46 claimant made within six months after the service of notice upon such
47 claimant or his attorney of the disapproval or disallowance of his claim

48 or any part thereof, reopen such claim and order a rehearing before
49 another medical examiner or board. Any person making any claim
50 under the provisions of this section may appeal to the Adjutant
51 General from the decision or finding of any medical examiner or board
52 within six months after notice of such decision or finding has been
53 served on him or his attorney, and the Adjutant General shall hear and
54 determine such appeal on its merits and may take testimony in the
55 same manner as upon an original application and may approve,
56 disapprove or modify the findings and decisions of any medical
57 examiner or board.]

58 Sec. 2. Subparagraph (A) of subdivision (9) of section 31-275 of the
59 general statutes is repealed and the following is substituted in lieu
60 thereof (*Effective July 1, 2005*):

61 (9) (A) "Employee" means any person who:

62 (i) Has entered into or works under any contract of service or
63 apprenticeship with an employer, whether the contract contemplated
64 the performance of duties within or without the state;

65 (ii) Is a sole proprietor or business partner who accepts the
66 provisions of this chapter in accordance with subdivision (10) of this
67 section;

68 (iii) Is elected to serve as a member of the General Assembly of this
69 state;

70 (iv) Is a salaried officer or paid member of any police department or
71 fire department;

72 (v) Is a volunteer police officer, whether the officer is designated as
73 special or auxiliary, upon vote of the legislative body of the town, city
74 or borough in which the officer serves; [or]

75 (vi) Is an elected or appointed official or agent of any town, city or
76 borough in the state, upon vote of the proper authority of the town,
77 city or borough, including the elected or appointed official or agent,

78 irrespective of the manner in which he or she is appointed or
 79 employed. Nothing in this subdivision shall be construed as affecting
 80 any existing rights as to pensions which such persons or their
 81 dependents had on July 1, 1927, or as preventing any existing custom
 82 of paying the full salary of any such person during disability due to
 83 injury arising out of and in the course of his or her employment; or

84 (vii) Is an officer or enlisted person of the National Guard or naval
 85 militia called to active duty by the Governor while performing his or
 86 her active duty service.

87 Sec. 3. Section 27-68 of the general statutes is repealed. (*Effective July*
 88 *1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2005</i>	27-67
Sec. 2	<i>July 1, 2005</i>	31-275(9)(A)
Sec. 3	<i>July 1, 2005</i>	27-68 repealed

LAB *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Dept. of Administrative Services - Workers' Comp. Claims	GF - Cost	See Below	See Below
Military Dept.	GF	Potential Savings	Potential Savings

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill places state armed forces personnel, including National Guard members¹ and naval militia, under the state workers' compensation system when they are called to active duty by the Governor². This bill will result in an indeterminate cost to the state workers' compensation system.

Under current law state, active duty armed forces personnel injured while on state orders can file a claim with the Workers' Compensation Commission or with the Military Department. Under the bill, active duty armed forces personnel can no longer file a claim with the Military Department; their claims would be under the state workers' compensation system.

This bill will increase the number of workers' compensation claims in the state workers' compensation system. The extent of these claims, and their associated costs, depends on the number of times the Governor calls the state armed forces personnel to active duty, how many personnel are called to duty, and how many of those personnel

¹ There are approximately 4,300 National Guard members in Connecticut.

² If injured under federal orders, Connecticut National Guard members would receive federal compensation.

sustain a disability or injury while on active duty.

This bill may result in a savings to the Military Department if the department no longer has to purchase an accidental death or dismemberment policy through the state's Insurance and Risk Management Board.

OLR Bill Analysis

HB 6565

AN ACT PROVIDING WORKERS' COMPENSATION BENEFITS FOR CONNECTICUT NATIONAL GUARD MEMBERS CALLED TO ACTIVE DUTY**SUMMARY:**

Under current law, state armed forces personnel, including Connecticut National Guard members, injured while on duty under state orders can file a claim in either (1) the workers' compensation system available to all workers or (2) a similar system in the Military Department under the authority of the adjutant general. (If injured while they are on federal orders, Connecticut Guardsmen would receive federal compensation.) This bill repeals the Military Department's authority to consider claims, make or deny compensation awards, and set compensation amounts. It places state armed forces personnel under the state workers' compensation system when they are on state orders. By law, "state armed forces personnel" is defined as the Connecticut National Guard, the state naval militia (including the marine corps branch), and the organized militia (which includes the Governor's Foot Guards and the Governor's Horse Guards).

EFFECTIVE DATE: July 1, 2005

EXISTING WORKERS' COMPENSATION FOR STATE ARMED FORCES

The bill requires that any member of the state armed forces who is under orders and is injured or contracts a disease when on duty or assembled for duty must receive benefits in accordance with the state Workers' Compensation Act. It applies to any injury or disease that causes temporary or permanent disability that prevents the person from performing his usual duties or occupation.

Under current law, the member is covered under either regular workers' compensation or a system overseen by the adjutant general and the Military Department. Under the military system, the adjutant

general has broad authority to (1) appoint a medical examiner or board of examiners to review the claim's merits, (2) order the claimant to be treated at a specific hospital, (3) order the examiner's findings be revised or require further testimony, and (4) hear appeals and approve, disapprove, or modify the original decision. In this system a claimant forfeits the rights to his claim or any benefits if he does not comply with (1) the order for a medical exam, (2) the order to move to a hospital designated by the general, (3) any other order by the general, or (4) the treatment prescribed to him.

DEFINITION OF EMPLOYEE

The bill also adds National Guard members and state naval militia members called to active duty by the governor and performing active duty service (but not members of the organized militia) to the definition of employee in the state Workers' Compensation Act. This means the Military Department must adhere to all employer requirements of the workers' compensation law for National Guard and naval militia members. Members of the organized militia would still be covered under the Workers' Compensation Act under the bill's other provision.

COMMITTEE ACTION

Veterans' Affairs Committee

Change of Reference
Voice Vote

Labor and Public Employees Committee

Joint Favorable Report
Yea 12 Nay 0