

---

---

## **OLR Bill Analysis**

### **sHB 5172**

#### ***AN ACT CONCERNING STATE MILITARY SERVICE.***

#### **SUMMARY:**

This bill updates and changes several laws pertaining to the state's armed forces personnel and Military Department. It:

1. permits unpaid state military duty for the state's armed forces and its retirees with the consent of both the governor and member;
2. makes changes concerning pay, including elimination of additional state remuneration beyond salary for certain members;
3. gives the state's armed forces the same statutes as state employees for workers' compensation, liability, and immunity purposes when performing state military duty (i.e., under orders of the governor or another state civil authority);
4. repeals two death benefit statutes;
5. changes how certain military service is defined for state employees' benefits; and
6. removes the Military Department from the Department of Emergency Services and Public Protection where it currently is housed for administrative purposes only.

It also makes a change concerning memorials to veterans as well as technical and conforming changes.

EFFECTIVE DATE: Upon passage

#### **STATE'S ARMED FORCES**

By law, the state's armed forces are the (1) National Guard; (2) organized militia (i.e., the governor's guards, the State Guard, and other military forces the governor as commander-in-chief may designate); and (3) naval militia and marine corps branch of the naval militia, whenever organized (CGS § 27-2).

***Paid and Unpaid State Service***

The bill creates a clear two-track system of paid and unpaid (volunteer) service. It authorizes the state's armed forces members and retirees to be ordered to state military duty, including training, with or without pay with the consent of both the member and the governor.

It specifies that before being ordered to perform voluntary unpaid service, the member or retiree must be notified of the right to refuse to serve unpaid when asked to do so. When performing without pay or allowances, members' and retirees' work still counts for purposes of receiving credit toward retirement and any other benefits, as applicable.

The bill specifies that members and retirees on paid military duty the governor orders receive pay and allowances on the same pay scale and grade as when performing federal duty.

***Pay Rate***

The bill specifies that the state's armed forces, when ordered out by the governor are paid at the same rate as if they were ordered out by federal authority, including for the National Guard and organized militia longevity pay and allowances. It eliminates additional state payments beyond a salary of \$10 for most enlisted members and \$5 for chief petty officers, warrant officers, and junior commissioned officers.

It also specifies that the adjutant general determines the corresponding grades (pay according to rank) for the state's armed forces, including federally recognized National Guard units, to conform pay with federal rates, which is the current practice.

It eliminates a statutory mandate that Connecticut National Guard members (1) be paid for attending schools, conferences, staff or

ceremonial exercises when ordered by the governor and (2) who are commissioned officers serving on boards or military commissions or attending conferences that higher headquarters call receive pay and allowances according to their grade (rank), plus expenses.

***Workers' Compensation***

The bill eliminates a step in current law's state armed forces worker's compensation process, which requires an inquiry and report by the injured or killed member's commanding officer. The bill instead makes a member of the state's armed forces a state employee for purposes of the existing civilian workers' compensation process, liability, and immunity. It specifies that workers' compensation coverage also applies to members who are performing unpaid service. The bill does not include workers' compensation coverage for paid federal duty.

Under the bill, members of the state's armed forces are considered state employees when performing military duty the governor orders, including when called out to assist in containing a riot or civil commotion, or by another civil authority when the governor cannot be reached. (By law, state employees and officers are not liable for damage or injury that is caused within the scope of their employment or by the discharge of their duties as long as they are not wanton, reckless, or malicious (CGS § 4-165).)

The bill specifies that members are not considered state employees for any purpose other than liability, immunity, and being subject to the Workers' Compensation Commission's jurisdiction and compensation for death, disability, or injury while performing state military duty.

***Compensation Rate.*** Under the bill, any of the state's armed forces members performing state military duty may collect workers' compensation benefits based on his or her civilian salary or the average production wage in the state, whichever is greater, if the member is injured while engaged in military duties. This only applies if the member is unable to perform his or her regular employment duties.

Linking the benefit rate to the production wage means an increase in benefits for injured members whose non-military job pays less than the production wage.

***Certain Death Benefits***

The bill eliminates a \$20,000 payment under current law to the beneficiary of a state armed forces member who is killed in the line of duty while in state active service. Under current law, the payment goes to the next of kin if no beneficiary is named.

It also eliminates an obsolete death benefit the legislature enacted in 2005 intended for certain surviving dependents of Connecticut-domiciled armed forces members, including guard members and reservists, who were killed in action or died from illness or accident suffered while deployed and performing active-duty service in Southwest Asia in support of Operation Enduring Freedom (Afghanistan) or Operation Iraqi Freedom (Iraq) between September 11, 2001 and July 1, 2006.

The benefit under current law depends on whether there is a spouse or dependent children. For example, a spouse with no child receives \$50,000 in monthly installments over five years. But current law also specifies that any amount paid will be reduced by the amount paid for any federal death benefit. Since federal death benefits are well above state benefits, this provision is obsolete (see BACKGROUND).

***State Employees Serving in the National Guard or Reserves***

For state employees who are reservists or National Guard members who qualify for certain benefits, the bill replaces a list of specific military operations and actions with “military operation, war, or national emergency.” This extends the qualifying criteria for benefits to future operations, wars, and national emergencies.

Under current law, state employees called to federal active-duty service in support of (1) Operation Enduring Freedom, (2) military action against Iraq, (3) Operation Noble Eagle (anti-terrorism actions within the U.S.), (4) federal or state action in support of Operation

Liberty Shield or other anti-terrorism efforts in the U.S., and (5) Operation Jump Start (duty at the U.S. and Mexican border) receive up to 30 days' paid leave; payment of the difference between the employee's state pay (including longevity) and his or her military pay after 30 days. They are entitled to other fringe benefits, including continued state health insurance coverage for the employee and any dependents for the duration of active-duty service, as long as the employee continues to make the same insurance payments required before activation.

### **MEMORIALS**

Under current law, cities, towns, or boroughs may place memorials to veteran soldiers, sailors, and marines in state armories and on the ground around the armories, subject to the adjutant general's approval and without cost to the state. The bill specifies that memorials to veterans of the U.S. armed forces may be placed in state military facilities or on state-owned or controlled military property under the same conditions.

### **BACKGROUND**

#### ***SGLI***

In mid-2005, Servicemembers' Group Life Insurance (SGLI) was \$250,000, but was raised to \$400,000 as of September 1, 2005. SGLI is a U.S. Department of Veterans' Affairs term life insurance plan that provides up to \$400,000 of coverage, in increments of \$10,000, to servicemembers. Coverage of \$400,000 is automatic, but members may decline it or elect reduced coverage, in writing. Proceeds are payable to beneficiaries on the servicemember's death.

### **COMMITTEE ACTION**

Select Committee on Veterans' Affairs

Joint Favorable Substitute Change of Reference  
Yea 10 Nay 0 (03/13/2012)

Labor and Public Employees Committee

Joint Favorable

Yea 11 Nay 0 (03/20/2012)