



Substitute House Bill No. 6348

Public Act No. 13-25

AN ACT CONCERNING STATE MILITARY SERVICE.

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

Section 1. Section 27-61 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) As used in this part:

(1) "Member of the armed forces of the state" means a member of the organized militia, the National Guard, or the naval militia and the marine corps branch of the naval militia, and includes any retired member thereof who is detailed from the retired list in accordance with section 27-54; and

(2) "Military duty" means the performance of military service by a member of the armed forces of the state pursuant to competent state military orders, whether paid or unpaid for such military service, including training, performance of emergency response missions and traveling directly to or returning directly from the location of such military service.

(b) For military [service] duty when ordered out by the Governor, except when federal pay has been authorized, each [commissioned officer, warrant officer and enlisted person] member of the armed

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forces of the state assigned to a federally recognized National Guard unit in Connecticut shall be paid at the same rate, including longevity pay and allowances, as would be authorized if ordered out by federal authority. [but such rate shall be increased by the amount of ten dollars for enlisted persons and five dollars for warrant officers and first and second lieutenants.]

(c) For military [service] duty when ordered out by the Governor, each [commissioned officer, warrant officer and enlisted person] member of the armed forces of the state in a unit of the organized militia which is not federally recognized shall be paid on the same scale as the federal pay for corresponding grades [in the tables of organization] of the federally recognized National Guard, [increased by the amount of ten dollars for enlisted persons and five dollars for warrant officers and first and second lieutenants] including longevity pay and allowances. Unless otherwise provided by law, the determination of the corresponding grades in the [organized militia, other than the federally recognized National Guard,] armed forces of the state shall be made by the Adjutant General. [Officers, warrant officers and enlisted personnel of the Connecticut National Guard who attend schools, conferences or staff or ceremonial exercises by order of the Governor shall be paid their travel and actual expenses. Commissioned officers serving on boards or military commissions or attending conferences called by higher headquarters in or out of the state shall receive pay and allowance of their grade plus actual expenses.]

(d) Each [commissioned and warrant officer, chief petty officer and enlisted person] member of the naval militia when ordered out by the Governor, except when federal pay has been authorized, shall receive for each [day's service] day of military duty the same pay and allowances as are prescribed by the federal government for the corresponding grades of members of the United States Navy. [but such

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pay shall be increased by the amount of ten dollars for enlisted persons and five dollars for chief petty officers, warrant officers, lieutenants junior grade and ensigns.]

(e) Members of the armed forces of the state, with the consent of the member and the consent of the Governor, may be ordered to perform military duty, including training, with or without pay and allowances. Prior to being ordered to perform military duty without pay and allowances, such members shall be notified of their right to refuse consent at the time the consent required by this section is sought. Military duty without pay and allowances shall be, for all purposes other than compensation for the duty performed, construed as if it were duty with pay and allowances.

(f) When performing military duty with pay and allowances, members of the armed forces of the state shall be entitled to pay and allowances on the same scale as the corresponding grades of the federally recognized National Guard. Any such member who is detailed from the retired list in accordance with section 27-54 shall be entitled to pay and allowances in their state retired grade on the same scale as the corresponding grades of the federally recognized National Guard.

Sec. 2. Section 27-67 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

[The commanding officer of any officer, soldier or sailor wounded, disabled or killed, when such disability or death is incident to the service, shall immediately make or cause to be made, by one or more officers detailed for the purpose, full inquiry and report concerning such injury or death, in writing, through channels to the Adjutant General, with the names and addresses of qualified witnesses and a full statement of the testimony of each concerning the nature and extent of the injury and the manner of its occurrence. Each member of

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the armed forces of the state who, when on duty or assembled therefor, in accordance with orders of competent authority, or when called in aid of any civil authority, is injured or contracts any disease while in the performance of his or her duty or assembly therefor, without fault or neglect on his or her part, and thereby is temporarily or permanently disabled from continuing to perform his or her usual duties or occupation, shall, during the period of disability, receive benefits in accordance with the provisions of chapter 568.]

(a) A member of the armed forces of the state performing military duty in accordance with section 27-17, 27-18 or 27-61, as amended by this act, shall be construed to be an employee of the state for the specific purposes of liability, immunity and being subject to the jurisdiction of the Workers' Compensation Commission and shall be compensated in accordance with the provisions of chapter 568 for death, disability or injury incurred while performing such military duty. A member of the armed forces of the state performing such military duty shall not be considered an employee of the state for other purposes.

(b) Any member of the armed forces of the state who is injured while performing military duty in accordance with section 27-17, 27-18 or 27-61, as amended by this act, may collect benefits under the provisions of chapter 568 based on the salary of the member's employment or the average production wage in the state, as determined by the Labor Commissioner under the provisions of section 31-309, whichever is greater. The provisions of this subsection shall apply only if the member of the armed forces of the state is unable to perform the member's regular employment duties.

(c) For the purpose of this section, there shall be no prorating of compensation benefits because of other employment by a member of the armed forces of the state.

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Sec. 3. Subsection (f) of section 31-58 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(f) "Employee" means any individual employed or permitted to work by an employer but shall not include any individual employed in camps or resorts which are open no more than six months of the year or in domestic service in or about a private home, except any individual in domestic service employment as defined in the regulations of the federal Fair Labor Standards Act, or an individual employed in a bona fide executive, administrative or professional capacity as defined in the regulations of the Labor Commissioner or an individual employed by the federal government, or any individual engaged in the activities of an educational, charitable, religious, scientific, historical, literary or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis, or any individual employed as a head resident or resident assistant by a college or university, or any individual engaged in baby sitting, or an outside salesman as defined in the regulations of the federal Fair Labor Standards Act, [;] or any individual employed by a nonprofit theater, provided such theater does not operate for more than seven months in any calendar year, or a member of the armed forces of the state performing military duty, as such terms are defined in section 27-61, as amended by this act;

Sec. 4. Subdivision (9) of section 31-275 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

(i) Has entered into or works under any contract of service or apprenticeship with an employer, whether the contract contemplated

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the performance of duties within or without the state;

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

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

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

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

(vi) Is an elected or appointed official or agent of any town, city or borough in the state, upon vote of the proper authority of the town, city or borough, including the elected or appointed official or agent, irrespective of the manner in which he or she is appointed or employed. Nothing in this subdivision shall be construed as affecting any existing rights as to pensions which such persons or their dependents had on July 1, 1927, or as preventing any existing custom of paying the full salary of any such person during disability due to injury arising out of and in the course of his or her employment;

(vii) Is [an officer or enlisted person of the National Guard or other] a member of the armed forces of the state [called to active duty by the Governor while performing his or her active duty service] while in the performance of military duty, whether paid or unpaid for such military duty, in accordance with the provisions of section 27-17, 27-18 or 27-61, as amended by this act; or

(viii) Is elected to serve as a probate judge for a probate district established in section 45a-2.

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(B) "Employee" shall not be construed to include:

(i) Any person to whom articles or material are given to be treated in any way on premises not under the control or management of the person who gave them out;

(ii) One whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business;

(iii) A member of the employer's family dwelling in his house; but, if, in any contract of insurance, the wages or salary of a member of the employer's family dwelling in his house is included in the payroll on which the premium is based, then that person shall, if he sustains an injury arising out of and in the course of his employment, be deemed an employee and compensated in accordance with the provisions of this chapter;

(iv) Any person engaged in any type of service in or about a private dwelling provided he is not regularly employed by the owner or occupier over twenty-six hours per week;

(v) An employee of a corporation who is a corporate officer and who elects to be excluded from coverage under this chapter by notice in writing to his employer and to the commissioner; or

(vi) Any person who is not a resident of this state but is injured in this state during the course of his employment, unless such person (I) works for an employer who has a place of employment or a business facility located in this state at which such person spends at least fifty per cent of his employment time, or (II) works for an employer pursuant to an employment contract to be performed primarily in this state.

Sec. 5. Section 27-75 of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective from passage*):

Memorials to [veteran soldiers, sailors or marines] veterans of the armed forces of the state or the United States and to state or federal military service may be placed in state [armories] military facilities or erected upon [grounds appurtenant thereto by cities, towns or boroughs] state-owned or controlled military property, subject to the approval of the Adjutant General and without expense to the state.

Sec. 6. Subsections (b) and (c) of section 5-259d of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(b) Notwithstanding any provision of the general statutes or any public or special act, the state shall continue to provide coverage, under a group hospitalization and medical and surgical insurance plan sponsored by the state under section 5-259, for the dependents of any state employee and the state employee who is a member of the armed forces of any state or of any reserve component of the armed forces of the United States and who has been called to active service in the armed forces of any state or the United States for [(1) Operation Enduring Freedom, (2) Operation Noble Eagle, (3) a related emergency operation or a military operation whose mission was substantially changed as a result of the attacks of September 11, 2001, (4) federal action or state action authorized by the Governor in support of the federal Department of Homeland Security's Operation Liberty Shield, military operations that are authorized by the President of the United States that entail military action against Iraq, or federal action or state action authorized by the Governor to combat terrorism within the United States, or (5) federal action or state action authorized by the Governor or the President of the United States that entails service or military action as part of Operation Jump Start at the border of the United States and Mexico] a military operation, war or national emergency, for the duration of such call-up to active service, provided

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such state employee and dependents were covered by the insurance plan on the date the state employee was called to active service and the state employee continues to pay any amount that the employee was required to pay for coverage before being called to active service. Any payment required to be made by the employee for coverage under this subsection may be deducted from compensation provided under subsection (c) of this section. The state shall reimburse any state employee who has paid premiums for the continuation of any such group hospitalization and medical and surgical insurance plan between the date such state employee was called to active service and November 20, 2001. The reimbursement shall be in the amount of the state's portion of the premiums so paid.

(c) Notwithstanding any provision of the general statutes or any public or special act, any state employee who is a member of the armed forces of any state or of any reserve component of the armed forces of the United States and who has been called to active service in the armed forces of any state or the United States for [(1) Operation Enduring Freedom, (2) Operation Noble Eagle, (3) a related emergency operation or a military operation whose mission was substantially changed as a result of the attacks of September 11, 2001, (4) federal action or state action authorized by the Governor in support of the federal Department of Homeland Security's Operation Liberty Shield, military operations that are authorized by the President of the United States that entail military action against Iraq, or federal action or state action authorized by the Governor to combat terrorism within the United States, or (5) federal action or state action authorized by the Governor or the President of the United States that entails service or military action as part of Operation Jump Start at the border of the United States and Mexico] a military operation, war or national emergency, shall continue to accrue all vacation time, equivalent leave time and sick time to which the employee would be entitled if he or she had continued working in his or her state position during the time

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of such active service, and shall be credited with such accrued vacation time, equivalent leave time or sick time, except that if the accrual of such vacation time, equivalent leave time or sick time pursuant to this subsection while on active service would cause the employee to exceed any limit on leave time pursuant to any provision of the general statutes, the regulations of Connecticut state agencies or a collective bargaining agreement, the limit shall be temporarily waived to allow the employee to use the excess leave time before the later of the following: [(A)] (1) From the date of the state employee's discharge from active service until the state employee returns to state employment, [(B)] (2) not later than one hundred twenty calendar days after the state employee returns to state employment, [(C)] (3) not later than one hundred twenty calendar days after the state employee is credited with such excess leave time, or [(D)] (4) for state employees in teaching or professional positions in Unified School District #1 established pursuant to section 18-99a within the Department of Correction who were credited with equivalent leave time pursuant to this section, not later than one year after the employee is credited with such excess leave time. The employee shall be entitled to a leave of absence with pay as provided in section 27-33 from the date on which the employee was called to active service. After the expiration of such leave of absence with pay, the state employee shall receive part pay for the duration of such call-up to active service if the compensation received by the state employee for such active service is less than the employee's base rate of pay, plus longevity, in the employee's primary position. The state employee shall not be required to exhaust accrued vacation time, equivalent leave time or sick time in order to be eligible for the paid leave of absence and part pay under this subsection. As used in this section, "equivalent leave time" means leave time classified as other than vacation time or sick time and includes, but is not limited to, leave time classified as recess rather than vacation time.

Sec. 7. Sections 27-19a, 27-67a, 27-69, 27-69a and 29-1s of the general

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statutes are repealed. (*Effective October 1, 2013*)

Approved May 24, 2013