



General Assembly

January Session, 2013

**Substitute Bill No. 6348**

\*          HB06348VA          022213          \*

**AN ACT CONCERNING STATE MILITARY SERVICE.**

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

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 Section 27-61 of the general statutes is repealed and the  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

3       (a) As used in this part:

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

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

15       (b) For military [service] duty when ordered out by the Governor,  
16       except when federal pay has been authorized, each [commissioned  
17       officer, warrant officer and enlisted person] member of the armed  
18       forces of the state assigned to a federally recognized National Guard  
19       unit in Connecticut shall be paid at the same rate, including longevity

20 pay and allowances, as would be authorized if ordered out by federal  
21 authority. [but such rate shall be increased by the amount of ten  
22 dollars for enlisted persons and five dollars for warrant officers and  
23 first and second lieutenants.]

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

43 (d) Each [commissioned and warrant officer, chief petty officer and  
44 enlisted person] member of the naval militia when ordered out by the  
45 Governor, except when federal pay has been authorized, shall receive  
46 for each [day's service] day of military duty the same pay and  
47 allowances as are prescribed by the federal government for the  
48 corresponding grades of members of the United States Navy. [but such  
49 pay shall be increased by the amount of ten dollars for enlisted persons  
50 and five dollars for chief petty officers, warrant officers, lieutenants  
51 junior grade and ensigns.]

52 (e) Members of the armed forces of the state, with the consent of the

53 member and the consent of the Governor, may be ordered to perform  
54 military duty, including training, with or without pay and allowances.  
55 Prior to being ordered to perform military duty without pay and  
56 allowances, such members shall be notified of their right to refuse  
57 consent at the time the consent required by this section is sought.  
58 Military duty without pay and allowances shall be, for all purposes  
59 other than compensation for the duty performed, construed as if it  
60 were duty with pay and allowances.

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

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

71 [The commanding officer of any officer, soldier or sailor wounded,  
72 disabled or killed, when such disability or death is incident to the  
73 service, shall immediately make or cause to be made, by one or more  
74 officers detailed for the purpose, full inquiry and report concerning  
75 such injury or death, in writing, through channels to the Adjutant  
76 General, with the names and addresses of qualified witnesses and a  
77 full statement of the testimony of each concerning the nature and  
78 extent of the injury and the manner of its occurrence. Each member of  
79 the armed forces of the state who, when on duty or assembled therefor,  
80 in accordance with orders of competent authority, or when called in  
81 aid of any civil authority, is injured or contracts any disease while in  
82 the performance of his or her duty or assembly therefor, without fault  
83 or neglect on his or her part, and thereby is temporarily or  
84 permanently disabled from continuing to perform his or her usual  
85 duties or occupation, shall, during the period of disability, receive

86 benefits in accordance with the provisions of chapter 568.]

87 (a) Except as provided in section 4-165, a member of the armed  
88 forces of the state performing military duty in accordance with section  
89 27-61, as amended by this act, shall be construed to be an employee of  
90 the state for the specific purposes of liability, immunity and being  
91 subject to the jurisdiction of the Workers' Compensation Commission  
92 and shall be compensated in accordance with the provisions of chapter  
93 568 for death, disability or injury incurred while performing such  
94 military duty. A member of the armed forces of the state performing  
95 such military duty shall not be considered an employee of the state for  
96 other purposes.

97 (b) Any member of the armed forces of the state who performs  
98 military duty pursuant to sections 27-17 and 27-18 shall be construed  
99 to be an employee of the state for the specific purposes of liability,  
100 immunity and being subject to the jurisdiction of the Workers'  
101 Compensation Commission and shall be compensated in accordance  
102 with the provisions of chapter 568 for death, disability or injury  
103 incurred while performing such military duty. A member of the armed  
104 forces of the state performing such military duty shall not be  
105 considered an employee of the state for other purposes.

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

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

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

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

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

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

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

149 (ii) Is a sole proprietor or business partner who accepts the

150 provisions of this chapter in accordance with subdivision (10) of this  
151 section;

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

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

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

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

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

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

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

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

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

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

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

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

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

203 Sec. 5. Section 27-75 of the general statutes is repealed and the  
204 following is substituted in lieu thereof (*Effective from passage*):

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

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

214 (b) Notwithstanding any provision of the general statutes or any  
215 public or special act, the state shall continue to provide coverage,  
216 under a group hospitalization and medical and surgical insurance plan  
217 sponsored by the state under section 5-259, for the dependents of any  
218 state employee and the state employee who is a member of the armed  
219 forces of any state or of any reserve component of the armed forces of  
220 the United States and who has been called to active service in the  
221 armed forces of any state or the United States for [(1) Operation  
222 Enduring Freedom, (2) Operation Noble Eagle, (3) a related emergency  
223 operation or a military operation whose mission was substantially  
224 changed as a result of the attacks of September 11, 2001, (4) federal  
225 action or state action authorized by the Governor in support of the  
226 federal Department of Homeland Security's Operation Liberty Shield,  
227 military operations that are authorized by the President of the United  
228 States that entail military action against Iraq, or federal action or state  
229 action authorized by the Governor to combat terrorism within the  
230 United States, or (5) federal action or state action authorized by the  
231 Governor or the President of the United States that entails service or  
232 military action as part of Operation Jump Start at the border of the  
233 United States and Mexico] a military operation, war or national  
234 emergency, for the duration of such call-up to active service, provided  
235 such state employee and dependents were covered by the insurance  
236 plan on the date the state employee was called to active service and the  
237 state employee continues to pay any amount that the employee was  
238 required to pay for coverage before being called to active service. Any  
239 payment required to be made by the employee for coverage under this  
240 subsection may be deducted from compensation provided under  
241 subsection (c) of this section. The state shall reimburse any state  
242 employee who has paid premiums for the continuation of any such  
243 group hospitalization and medical and surgical insurance plan  
244 between the date such state employee was called to active service and

245 November 20, 2001. The reimbursement shall be in the amount of the  
246 state's portion of the premiums so paid.

247 (c) Notwithstanding any provision of the general statutes or any  
248 public or special act, any state employee who is a member of the  
249 armed forces of any state or of any reserve component of the armed  
250 forces of the United States and who has been called to active service in  
251 the armed forces of any state or the United States for [(1) Operation  
252 Enduring Freedom, (2) Operation Noble Eagle, (3) a related emergency  
253 operation or a military operation whose mission was substantially  
254 changed as a result of the attacks of September 11, 2001, (4) federal  
255 action or state action authorized by the Governor in support of the  
256 federal Department of Homeland Security's Operation Liberty Shield,  
257 military operations that are authorized by the President of the United  
258 States that entail military action against Iraq, or federal action or state  
259 action authorized by the Governor to combat terrorism within the  
260 United States, or (5) federal action or state action authorized by the  
261 Governor or the President of the United States that entails service or  
262 military action as part of Operation Jump Start at the border of the  
263 United States and Mexico] a military operation, war or national  
264 emergency, shall continue to accrue all vacation time, equivalent leave  
265 time and sick time to which the employee would be entitled if he or  
266 she had continued working in his or her state position during the time  
267 of such active service, and shall be credited with such accrued vacation  
268 time, equivalent leave time or sick time, except that if the accrual of  
269 such vacation time, equivalent leave time or sick time pursuant to this  
270 subsection while on active service would cause the employee to exceed  
271 any limit on leave time pursuant to any provision of the general  
272 statutes, the regulations of Connecticut state agencies or a collective  
273 bargaining agreement, the limit shall be temporarily waived to allow  
274 the employee to use the excess leave time before the later of the  
275 following: [(A)] (1) From the date of the state employee's discharge  
276 from active service until the state employee returns to state  
277 employment, [(B)] (2) not later than one hundred twenty calendar days  
278 after the state employee returns to state employment, [(C)] (3) not later

279 than one hundred twenty calendar days after the state employee is  
 280 credited with such excess leave time, or [(D)] (4) for state employees in  
 281 teaching or professional positions in Unified School District #1  
 282 established pursuant to section 18-99a within the Department of  
 283 Correction who were credited with equivalent leave time pursuant to  
 284 this section, not later than one year after the employee is credited with  
 285 such excess leave time. The employee shall be entitled to a leave of  
 286 absence with pay as provided in section 27-33 from the date on which  
 287 the employee was called to active service. After the expiration of such  
 288 leave of absence with pay, the state employee shall receive part pay for  
 289 the duration of such call-up to active service if the compensation  
 290 received by the state employee for such active service is less than the  
 291 employee's base rate of pay, plus longevity, in the employee's primary  
 292 position. The state employee shall not be required to exhaust accrued  
 293 vacation time, equivalent leave time or sick time in order to be eligible  
 294 for the paid leave of absence and part pay under this subsection. As  
 295 used in this section, "equivalent leave time" means leave time classified  
 296 as other than vacation time or sick time and includes, but is not limited  
 297 to, leave time classified as recess rather than vacation time.

298       Sec. 7. Sections 27-19a, 27-67a, 27-69, 27-69a and 29-1s of the general  
 299 statutes are repealed. (*Effective October 1, 2013*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	27-61
Sec. 2	<i>October 1, 2013</i>	27-67
Sec. 3	<i>October 1, 2013</i>	31-58(f)
Sec. 4	<i>October 1, 2013</i>	31-275(9)
Sec. 5	<i>from passage</i>	27-75
Sec. 6	<i>October 1, 2013</i>	5-259d(b) and (c)
Sec. 7	<i>October 1, 2013</i>	Repealer section

**Statement of Legislative Commissioners:**

In section 3, "such terms are" was added for clarity and accuracy.

**VA**      *Joint Favorable Subst. -LCO*