

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-25—sHB 6348

Veterans' Affairs Committee

Labor and Public Employees Committee

AN ACT CONCERNING STATE MILITARY SERVICE

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

1. permits unpaid state military duty for members and retirees of the state's armed forces, with the consent of the governor and servicemember or retiree, and credits such unpaid duty toward retirement and other benefits;
2. makes changes concerning paid duty, including the elimination of additional state remuneration beyond salary for certain servicemembers and reimbursement expenses for other members;
3. (a) gives members of the state's armed forces, and retirees performing state military duty, the same workers' compensation, liability, and immunity protections as state employees and (b) compensates members injured or killed according to the greater of their respective civilian salary or the state's average production wage, without prorating this compensation due to the member's other employment;
4. repeals two death benefit statutes;
5. changes how certain military service is defined for state employees' benefits;
6. removes the Military Department from the Department of Emergency Services and Public Protection, where it was located for administrative purposes only; and
7. expands the possible locations where veterans' memorials can be placed.

The act also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013, except the veterans' memorial provision, which is effective upon passage.

STATE'S ARMED FORCES

The law defines the "state's armed forces" as 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). For the purposes of pay and allowances, the act expands this definition to include retired members of the state's armed forces who are detailed to duty under state military orders.

Unpaid State Service

The act creates a two-track system of paid and unpaid service. It allows a

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member or retiree of the state's armed forces to be ordered to state military duty, including training, with or without pay, if both the member or retiree and the governor consent.

The act specifies that, before being ordered to perform unpaid service, the member or retiree must be notified of the right to refuse to serve without pay. Unpaid service still counts for purposes of receiving credit toward retirement and any other benefits, as applicable.

Paid State Service

The act specifies that members of the state's armed forces, including retirees, when ordered to duty by the governor, are paid at the same rate as if they were ordered to duty by federal authority (except when federal pay has been authorized). This includes longevity pay and allowances for members of the National Guard and organized militia. The act eliminates additional state payments 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.

Under prior law, National Guard members had to be paid for travel and expenses when attending schools, conferences, or staff or ceremonial exercises ordered by the governor. Commissioned officers serving on boards or military commissions or attending conferences called by higher headquarters received pay and allowances according to their grade (rank), plus actual expenses. The act eliminates these requirements.

Workers' Compensation and Personal Liability Immunity

The act eliminates a step in prior law's state armed forces workers' compensation process that required an inquiry and report by the injured or killed member's commanding officer.

The act also makes members of the state's armed forces, and retirees detailed to duty, including unpaid members and retirees, state employees for purposes of (1) the existing civilian workers' compensation process and compensation rates and (2) immunity from personal liability. By law, state employees and officers are not personally liable for damage or injury caused when they are acting within the scope of their employment or discharging their duties as long as their actions are not wanton, reckless, or malicious (CGS § 4-165).

These protections apply to members and detailed retirees (1) performing under the governor's orders or (2) called to help contain a riot or civil commotion, by the governor or another civil authority when the governor cannot be reached. They do not cover paid federal duty.

The act eliminates an obsolete provision that provided disability compensation to a member of the state's armed forces who (1) was temporarily or permanently disabled incident to state service before June 6, 1977, (2) applied for disability compensation and has a claim pending before the adjutant general, and (3) has not

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signed a written release of his or her claim for such disability. No such servicemember exists.

Compensation Rate. Under the act, any state armed forces member or detailed retiree performing state military duty may collect workers' compensation benefits based on his or her civilian salary or the average production wage in the state as determined by the labor commissioner, whichever is greater, if the member or retiree is injured while performing military duties. This applies only if the member or retiree is unable to perform his or her regular employment duties.

The act prohibits prorating any compensation provided to members of the state's armed forces injured, disabled, or killed while performing state military duties due to that member's other employment.

Certain Death Benefits

The act eliminates a \$20,000 death benefit payment to the beneficiary or next of kin of a state armed forces member killed in the line of duty while in state active service.

It also eliminates an obsolete death benefit intended for certain surviving dependents of Connecticut-domiciled armed forces members, including National Guard members and reservists, who were killed in action or died from an 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. Prior law required that this benefit be reduced by the amount of any federal death benefit. Because federal death benefits exceed state benefits, this provision is obsolete. Federal death benefits include coverage under a U.S. Department of Veterans' Affairs term life insurance plan that automatically provides up to \$400,000 of coverage.

State Employees Serving in the National Guard or Reserves

The act extends certain benefits to state employees called to federal active-duty service as reservists or National Guard members for any military operation, war, or national emergency that were available only for service in support of certain enumerated operations and missions under prior law. These employees receive up to 30 days' paid leave. After 30 days, they receive payment of the difference between their state pay (including longevity) and their military pay. They are also entitled to other fringe benefits, including continued state health insurance coverage for themselves and any dependents for the duration of active-duty service, as long as they continue to make the same insurance payments required before activation.

Under prior law, state employees who were reservists or National Guard members received these benefits if they were 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 United States),
4. a related emergency operation or a military operation whose mission was

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- substantially changed as a result of the attacks of September 11, 2001,
5. federal or state action in support of Operation Liberty Shield or other anti-terrorism efforts in the United States, and
 6. Operation Jump Start (duty at the U.S. and Mexican border).

MEMORIALS

Under prior law, cities, towns, or boroughs could 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 act allows any adjutant general-approved memorial to veterans of the U.S. Armed Forces to be placed in state military facilities or on state-owned or -controlled military property, so long as there is no cost to the state.

OLR Tracking: DL:DC:PF:RO