

Legislative Analysis



FAMILY MILITARY LEAVE ACT

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House Bill 4751 as passed by the House

Sponsor: Rep. Brian Calley

Committee: Military and Veterans Affairs and Homeland Security

Complete to 6-2-09

A SUMMARY OF HOUSE BILL 4751 AS PASSED BY THE HOUSE

The bill would create a new act known as the Family Military Leave Act to allow family military leave from employment for parents and spouses of individuals called to active military service. The bill also prescribes certain rights and responsibilities of the employee and employer. The employer would not be required to pay salary or wages to the employee while on family military leave but would be required to continue existing fringe benefits.

The term "employer" would be defined to mean an individual or entity that employs 15 or more employees, and includes the state and a local unit of government.

Employee Eligibility. The bill would require an employer to grant up to 10 days or 80 hours of family military leave (whichever is less) to an employee if all of the following conditions apply:

****The employee has been employed for at least 12 months and for at least 1,250 hours during the immediately preceding 12 months.**

****The employee is the parent or spouse of an individual who is a member of one of the reserve components of the United States armed forces called into active duty for a period longer than 30 days.**

****The employee gives at least 14 days' notice to the employer of the dates that he or she intends to take family military leave.**

****The dates of the requested leave fall within two weeks before or one week after the deployment date.**

****The employee has exhausted all accrued leave and compensatory time available, other than sick and disability leave.**

The employer could require the employee requesting family military leave to provide certification from the proper military authority to verify eligibility.

Employer Obligations. An employer would be required to continue existing fringe benefits to the employee during family military leave, and the employee would be responsible for the same proportion of costs paid for benefits before the leave period. An employer could not deprive an employee who takes family military leave of any employment benefit that accrued before the date the new act begins. However, the employer would not be required to pay salary or wages to the employee while on family military leave. Upon expiration of the

employee's family military leave, the employer would have to restore the employee to his or her position or to a position with equal seniority, benefits, pay and other terms and conditions of employment.

Under the bill, an employer could not interfere with, restrain, or deny the exercise or attempted exercise of a right provided under the new act. An employer could not discharge, fine, suspend, expel, discipline or discriminate against an employee with respect to any term or condition of employment because of the employee's actual or potential exercise of a right or because of an employee's support for another employee's exercise of a right. An employer could not require an employee to waive rights under the act. This section does not prevent an employer from taking employment action that is independent of the exercise of a right under the act.

Collective Bargaining Provisions. This act would not affect an employer's obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater leave rights to employees than described in the act. An employee's right under this act could not be waived or diminished under a term in a collective bargaining agreement or employee benefit plan that takes affect after the effective date of this act.

Civil Action. An individual aggrieved by a violation of the act could bring an action in circuit court to enjoin the violation or for any other relief necessary to secure a right under the act.

Definition. The bill defines "armed forces of the United States" to mean all components, including reserve and national guard components, of the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

FISCAL IMPACT:

The fiscal impact of the bill is indeterminate. There could be costs incurred by the state, as an employer, to pay for any increased overtime resulting from leave time taken by employees covered under the act. (Civil Service rules and union contracts would govern employee leave time policies for classified employees; the bill would apply to unclassified positions.) There could be increased overtime costs incurred by local units of government as well. However, in both instances, there also could be cost savings achieved because the leave time allowed under the bill could be unpaid. There would be a similar impact on private sector employers. All of this would have an impact on employee earnings which, in turn, would have an impact (albeit an indeterminate and not likely significant one) on tax revenue. Additionally, the Department of Military and Veterans Affairs could incur additional costs for certifying an employee's eligibility for leave.

POSITIONS:

Department of Military and Veterans Affairs support the bill. (4-28-09)

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