

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 3664

DATE: May 17, 2006

Version: First Engrossment

Authors: Cybart and others

Subject: Military and Veterans

Analyst: Jim Cleary, 651-296-5053

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill contains several policy initiatives affecting soldiers and veterans, including the no-cost provisions contained in the Governor's Bill, as supplemented through amendment by the various committees of the house that heard that bill. This bill contains no appropriations, and no provisions linked to any proposed appropriations.

Section

- 1 State salary differential program eligibility; mobilized reservists.** This bill broadens the eligibility criteria for the pay differential program for state employees when they are ordered into active military service. Under current law, the program eligibility is limited to members of the Minnesota National Guard and other military reserves (i.e., to members of the reserve components of the *U.S. Armed Forces*). The bill would broaden eligibility to include other reserve members of the *uniformed services* of the United States, as well.

Under federal law (U.S.C. Title 10, Ch. 1, §101(a)(5)), the term "*Uniformed Services*" includes:

- 1) the *U.S. armed forces* (Army, Navy, Air Force, Marine Corps and Coast Guard);
- 2) the commissioned corps of the National Oceanic and Atmospheric Administration; and
- 3) the commissioned corps of the Public Health Service (e.g., morticians mobilized to

Section

identify bodies following Hurricane Katrina).

All other changes in this section are either conforming or clarifying.

- 2** **State park pass exemption; military personnel on leave.** Exempts military personnel from the requirement to obtain a Minnesota State Park entrance permit, if they are serving in federal active military service outside Minnesota, and for 90 days immediately thereafter.

The servicemember must notify the park attendant on duty of the person's military status when using this exemption, and also must have a valid military ID in possession and must visibly affix his or her military orders to the inside of the windshield of the vehicle being used at that time.

This provision would apply to any servicemember stationed outside Minnesota on federal active service, whether the person is a member of the National Guard or reserves, or is a member of any branch of the regular active military. The benefit would not be restricted to Minnesota residents. It is expected that the primary beneficiaries of this bill would be Minnesota service members when home on leave, as well as many members of the National Guard and Reserves upon their return home from the war. (Immediate effective date.)

- 3** **Employment leave for family members of injured or killed soldier.** Requires any public or private employer to grant unpaid leave of absence to an employee whose immediate family member is injured or killed while serving in active military service.

Subd. 1. Definitions. Defines "*active service*" to broadly include both federal and state active military service for any purpose, including training. Defines "*employer*" and "*employee*" as both public and private sector, including an independent contractor. Defines "*immediate family member*" as the deceased servicemember's parent, child, grandparents, siblings or spouse.

Subd. 2. Leave required. Requires a public or private employer to grant up to 10 days of unpaid leave of absence to an employee whose immediate family member has been killed or injured while serving in active military service.

Subd. 3. Notice. Requires the employee to give the employer as much notice as is practicable before taking the leave.

Subd. 4. Relationship to other leave. Allows the employer to reduce the unpaid leave by any period of paid leave provided for the employee.

- 8** **Cross-reference; job leave for wounded/killed soldier.** Adds a cross-reference in the National Guard chapter of Statutes to the leave benefit in section 3.

- 4** **Employment leave for family members of injured or killed soldiers.** Requires all public and private employers in Minnesota, except independent contractors, to provide unpaid leave to an employee whose immediate family member has been mobilized into active military service in support of a war or other national emergency.

Section

Allows the employer to limit the amount of leave to the actual time necessary to attend a send-off or homecoming ceremony, not to exceed one-day's duration in any calendar year.

7 **Cross-reference; job leave for military mobilization ceremonies.** Adds a cross-reference in the National Guard chapter of Statutes to the leave benefit in section 4.

5 **Policy statement.** Inserts a policy statement into National Guard statutes. It acknowledges the need for a strong military in both peacetime and war, recognizes the ongoing sacrifices of military members and their families, and commends the character, leadership and training of military personnel of all generations.

States that it shall be the policy of the State of Minnesota to maintain laws, policies, rules and procedures that encourage, recognize and reward honorable military service, so far as is practicable and within available resources, at all times.

6 **Job protections; extending federal law.** There are two key federal laws that protect soldiers' rights upon their being ordered into *federal active service*. Those laws are:

- **SCRA** (the newly-renamed *Servicemembers' Civil Relief Act*), which provides a range of *civil law protections*; and
- **USERRA** (the *Uniformed Services Employment and Reemployment Rights Act*), which provides a range of *employment protections*.

Since 2002, Minnesota Statutes, section 190.055 has extended federal SCRA law by guaranteeing the same *civil law protections* for soldiers mobilized into *state active service* or *federally funded state active service*, as have been provided under federal law for soldiers mobilized into *federal active service*. Clause (a)(1) of this section of the bill updates the cross-reference to that federal law using its newly revised federal title.

By adding a similar cross reference to USERRA, the new language in clause (a)(2) adds to state statutes the *employment protections* for soldiers entering into *state active service* or *federally funded state active service* that are currently being provided under USERRA to soldiers entering into *federal active service*.

An example of mobilization into *state active service*, which later became *federally funded state active service*, was the situation on 9/11 when hundreds of Minnesota National Guard members were mobilized for 179 days of emergency airport security duty within the state.

9 **Higher Education; Fairness for military members.**

Subd. 1. Definitions.

Subd. 2. Course recognition. (a) Directs MNSCU institutions to recognize courses and award educational credits for a veteran's military training or service, if the courses meet the standards of the American Council on Education or the equivalent.

Section

(b) Encourages the UMN and private colleges and universities to do likewise.

Subd. 3. Tuition status. Directs the UMN and MNSCU to treat all veterans as Minnesota residents for undergraduate tuition rate purposes. It also directs that for graduate school tuition purposes, a veteran must be treated as a resident if the person was a resident upon entering the military and starts the graduate program within two years of completing military service.

Subd. 4. Delayed payment of tuition. Directs that UMN and MNSCU may not assess late fees or other late charges for veterans who are eligible to receive, have applied for, and are waiting to receive federal educational assistance, nor prevent them from registering for a subsequent term. The institution may require payment from a veteran within 30 days of the veteran's receipt of such federal assistance.

10

Occupational and professional licensure and certification; continued for mobilized soldiers. Clarifies a 50-year-old statute that protects the existing occupational/professional licensure/certification of Minnesotans who are ordered into active military service, as well as Minnesotans who are employed in key national defense jobs and deployed overseas during time of war or national emergency.

The current statute might well contain the longest sentence in Minnesota Statutes (over 300 words). The bill clarifies the statute by updating and/or deleting archaic language.

The statute has provided, and would continue to provide, that persons who have state occupational/professional certification/licensure at the time they are deployed into such military or essential civilian service may apply to be recertified or relicensed during and for up to six months following such deployment without fee and without having to meet any other continuing educational or training requirements or other conditions. And if the person's licensure or certification has expired during that time period, it must be reinstated upon request, and in the same manner.

The closing language of the bill clarifies that such renewal is permitted during the qualifying time period, irrespective of whether the certification or licensure actually expires during that period of time. Under current law, that point is ambiguous and, thus, is interpreted differently by different state agencies responsible for licensing and certification.

11, 12, 13

National Guard security guards allowed to carry certain weapons at work. Minnesota Statutes currently strictly regulate the ownership, possession and use of machineguns and short-barreled shotguns. This bill would expand the list of permitted users of such weapons to include persons employed by the Minnesota National Guard as security guards, when working on a military base in accordance with federal military regulations.

Current categories of authorized users include:

- certain law enforcement and correctional officers;
- certain authorized manufacturers (for sale to federal and state agencies); and
- certain authorized collectors.

Section

Other persons are generally prohibited by both federal and state law from possessing machine guns and short-barreled shotguns.

Under both federal and state law a machinegun is any firearm designed to discharge, or capable of discharging automatically, more than once by a single pull of the trigger. This definition encompasses many standard military firearms, including the M16 and M4 standard assault rifles commonly used by National Guard and Reserve soldiers. Any shotgun having a barrel under 18 inches in length meets the federal definition of short-barreled shotgun.

14 **Memorial plaques.** Authorizes placement of plaques in the military court of honor in the Capitol Mall honoring:

- *military war dogs from all wars and their handlers; and*
- *soldiers who have earned the Congressional Medal of Honor, the nation's highest military award.*

The plaques must be paid for by non-state sources, and must meet design approval by the commissioner of veterans affairs and the Minnesota Architectural and Planning Board. As a practical matter, the commissioner also controls the contracting for and installment of such plaques. (Currently, there are approximately two dozen military plaques in the court of honor, with room for a few dozen more.)