

HOUSE RESEARCH

Bill Summary

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Overview

The Eleventh Amendment to the U.S. Constitution prohibits a state from being sued in federal court, unless the state has explicitly consented to the suit (or certain other exceptions apply).

This bill provides that the state consents to suit in federal court - it waives its Eleventh Amendment immunity - for claims arising out of the Uniformed Services Employment and Reemployment Rights Act (USERRA). The waiver would primarily impact the rights of service members who are also state employees.

USERRA is a federal law related to service members' reemployment rights when returning from a period of service in the uniformed services, including persons called up from the reserves or National Guard; it also prohibits employer discrimination based on military service or obligation.

Similar waivers have been enacted into state law for other types of federal employment claims, including claims under the Age Discrimination in Employment Act, the Fair Labor Standards Act, the Family and Medical Leave Act, and the Americans with Disabilities Act.

USERRA

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA, 38 U.S.C. §§ 4301-4335) is a federal law intended to ensure that persons who serve or have served in the Armed Forces, Reserves, National Guard or other "uniformed services:"

- (1) are not disadvantaged in their civilian careers because of their service;
 - (2) are promptly reemployed in their civilian jobs upon their return from duty; and
 - (3) are not discriminated against in employment based on past, present, or future military service.
- (Source: U.S. Office of Special Counsel)

USERRA is administered by the U.S. Department of Labor's Veterans' Employment and Training Service (DOL/VETS).

