

NATIONAL GUARD TRAINING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to public officers and employees in military service.

Highlighted Provisions:

This bill:

▸ defines "active military service" for a public employee, public officer, or legislative employee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

39-3-1, as repealed and reenacted by Laws of Utah 1991, Chapter 65

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **39-3-1** is amended to read:

39-3-1. Public officers and employees in military service -- Not to be prejudiced thereby -- Refusal to reinstate -- Procedure -- Motion -- Hearing and determination.

(1) As used in this section:



28 (a) "Active military service" means full-time duty performed by a member of the Utah
29 National Guard.

30 (b) "Active military service" includes:

31 (i) temporary duty assignments;

32 (ii) attendance at military occupational specialty schools, Air Force specialty schools,
33 and basic branch schools;

34 (iii) professional military education; and

35 (iv) other assignments determined necessary by the Adjutant General.

36 ~~[(1)]~~ (2) A public employee, public officer, or legislative employee, as defined in
37 Section 67-16-3, who enters active military service in any branch of the armed forces of this
38 state or of the United States shall be granted a leave of absence during that service.

39 ~~[(2)]~~ (3) (a) A person entitled to a leave of absence under this section shall be restored
40 to the same position, or to a position equivalent to the same position, which the person held
41 immediately prior to the commencement of active military service.

42 (b) A request for restoration of employment under this section must be submitted
43 within 40 days after release from active military service.

44 (c) Restoration of employment shall be made within 20 days after submission of the
45 request to the employer.

46 (d) A person returning from active military service may not, without cause, be
47 discharged or subjected to reduction of compensation for a period of one year following a
48 return to employment under this section.

49 ~~[(3)]~~ (4) A person returning to employment under this section:

50 (a) shall retain all personal, sick, and other leave to which the person was entitled
51 immediately prior to the commencement of active military service;

52 (b) shall receive and earn benefits and compensation at a level not less than that to
53 which the person would have been entitled had the officer or employee not been absent due to
54 active military service; and

55 (c) may not be prejudiced, by the preservice employer or that employer's successor in
56 interest, as to employment, appointment, reappointment, reemployment, or promotion by
57 reason of the employee's active military service.

58 ~~[(4)]~~ (5) (a) No public employee, public officer, or legislative employee may be

59 required to resign from, vacate, or forfeit a governmental office or position as a consequence of
60 entering into active military service.

61 (b) A person in active military service is not considered to be holding an office or
62 position of trust or employment under the United States government for purposes of
63 determining whether that person is disqualified or prohibited from retaining a position or
64 serving as a public employee, public officer, or legislative employee.

65 (c) Nothing in this section shall serve to extend a period of employment or term of
66 office beyond that to which the affected person was elected or appointed. A person who is a
67 legislator or public officer for a specific term by virtue of election or appointment is entitled to
68 a leave of absence under this section for a period not to exceed the applicable term.

69 [~~5~~] (6) A person denied restoration of employment or benefits given under this
70 section may petition the district court of the county in which the person resides, or in which the
71 denial occurs, to require the public employer to comply with the provisions of this section
72 without delay. Fees or court costs may not be assessed against the petitioner. The court shall
73 order a speedy hearing in the case and advance it on the calendar so far as reasonably possible.
74 If the court determines that the petitioner is entitled to relief, the court shall order all
75 appropriate relief, to include compensation for loss of wages and benefits and an award of
76 attorneys' fees and costs.