

**ASSEMBLY BILL**

**No. 276**

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**Introduced by Assembly Member Baca**

February 9, 2005

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An act to amend Section 19775.18 of the Government Code, relating to state employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 276, as introduced, Baca. State employees: military benefits.

Existing law authorizes a state employee who is a member of the California National Guard or a United States military reserve organization to receive specified compensation benefits for a period not to exceed 365 days if he or she is ordered to serve on active duty on and after September 11, 2001, as a result of the War on Terrorism. Existing law authorizes the Governor to extend this benefit by executive order by up to 365 days.

This bill would increase the number days that such a state employee is authorized to receive these compensation benefits to a period not to exceed 1,460 days. The bill would specify that a state employee would be entitled to retain hazardous duty pay, hostile fire pay, imminent danger pay, or any other special and incentive pay from the federal government because they would not be included as military pay and allowances for the purposes of these compensation benefits.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 19775.18 of the Government Code is
- 2 amended to read:

1 19775.18. (a) In addition to the benefits provided pursuant to  
2 Sections 19775 and 19775.1, a state employee who, as a member  
3 of the California National Guard or a United States military  
4 reserve organization, is ordered to active duty on and after  
5 September 11, 2001, as a result of the War on Terrorism, shall  
6 have the benefits provided for in subdivision (b).

7 (b) Any state employee to which subdivision (a) applies, while  
8 on active duty, shall receive from the state, for the duration of the  
9 event known as the War on Terrorism, as authorized pursuant to  
10 Sections 12302 and 12304 of Title 10 of the United States Code,  
11 but not for more than ~~365~~ 1,460 calendar days, as part of his or  
12 her compensation both of the following:

13 (1) The difference between the amount of his or her military  
14 pay and allowances and the amount the employee would have  
15 received as a state employee, including any merit raises that  
16 would otherwise have been granted during the time the individual  
17 was on active duty. The amount an employee, as defined in  
18 Section 18526, would have received as a state employee,  
19 including any merit raises that would otherwise have been  
20 granted during the time the individual was on active duty, shall  
21 be determined by the Department of Personnel Administration.

22 (2) All benefits that he or she would have received had he or  
23 she not served on active duty unless the benefits are prohibited or  
24 limited by vendor contracts.

25 (c) Any individual receiving compensation pursuant to  
26 subdivision (b) who does not reinstate to state service following  
27 active duty, shall have that compensation treated as a loan  
28 payable with interest at the rate earned on the Pooled Money  
29 Investment Account. This subdivision does not apply to  
30 compensation received pursuant to Section 19775.

31 (d) Benefits provided under paragraph (1) of subdivision (b)  
32 shall only be provided to a state employee who was not eligible  
33 to participate in a federally sponsored income protection program  
34 for National Guard personnel or military reserve personnel, or  
35 both, called into active duty, as determined by the Department of  
36 Personnel Administration. For a state employee eligible to  
37 participate in a federally sponsored income protection program,  
38 and whose monthly salary as a state employee was higher than  
39 the sum of his or her military pay and allowances and the  
40 maximum allowable benefit under the federally sponsored

1 income protection program, the state employee shall receive the  
2 amount payable under paragraph (1) of subdivision (b), but that  
3 amount shall be reduced by the maximum allowable benefit  
4 under the federally sponsored income protection program. For  
5 individuals who elected the federally sponsored income  
6 protection program, the state shall reimburse for the cost of the  
7 insurance premium for the period of time on active duty, not to  
8 exceed ~~365~~ 1,460 calendar days. The Governor may, by  
9 ~~Executive~~ executive order, extend this period of time by no more  
10 than an additional 365 calendar days.

11 (e) ~~For purposes of this section, “state employee” means~~  
12 *(1) “Military pay and allowances” for the purposes of this*  
13 *section does not include hazardous duty pay, hostile fire pay, or*  
14 *imminent danger pay. A state employee is entitled to retain these*  
15 *and any other special and incentive pay provided by the federal*  
16 *government.*

17 *(2) “State employee” for the purposes of this section means an*  
18 *employee as defined in Section 18526 or an officer or employee*  
19 *of the legislative, executive, or judicial department of the state.*

20 (f) This section does not apply to any state employee entitled  
21 to additional compensation or benefits pursuant to Section  
22 19775.16 or 19775.17 of this code, or Section 395.08 of the  
23 Military and Veterans Code.

24 (g) This section does not apply to any active duty served after  
25 the close of the War on Terrorism.