

Introduced by Senator Corbett

February 20, 2013

An act to amend Section 395.10 of the Military and Veterans Code, relating to military leave.

LEGISLATIVE COUNSEL'S DIGEST

SB 358, as introduced, Corbett. Military leave: domestic partner.

Existing law requires an employer to give a qualified employee, as defined, including the spouse of a qualified member of the Armed Forces or state militia, up to 10 days of unpaid leave during a period of military conflict, as defined.

This bill would also include the domestic partner of a qualified member of the Armed Forces or state militia within the definition of a qualified employee for purposes of obtaining unpaid leave under these provisions.

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

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

- 1 SECTION 1. Section 395.10 of the Military and Veterans Code
- 2 is amended to read:
- 3 395.10. (a) Notwithstanding any other provision of law, a
- 4 qualified employer shall allow a qualified employee to take up to
- 5 10 days of unpaid leave during a qualified leave period.
- 6 (b) For purposes of this section:
- 7 (1) "Period of military conflict" means either of the following:
- 8 (A) A period of war declared by the United States Congress.

- 1 (B) A period of deployment for which a member of a reserve
2 component is ordered to active duty pursuant to either of the
3 following:
- 4 (i) Sections 12301 and 12302 of Title 10 of the United States
5 Code.
6 (ii) Title 32 of the United States Code.
- 7 (2) “Qualified employee” means a person who satisfies all of
8 the following:
- 9 (A) Is the spouse *or domestic partner* of a qualified member.
10 (B) Performs service for hire for an employer for an average of
11 20 or more hours per week, but does not include an independent
12 contractor.
13 (C) Provides the qualified employer with notice, within two
14 business days of receiving official notice that the qualified member
15 will be on leave from deployment, of his or her intention to take
16 the leave provided for in subdivision (a).
17 (D) Submits written documentation to the qualified employer
18 certifying that the qualified member will be on leave from
19 deployment during the time the leave provided for in subdivision
20 (a) is requested.
- 21 (3) “Qualified employer” includes any individual, corporation,
22 company, firm, state, city, county, city and county, municipal
23 corporation, district, public authority, or any other governmental
24 subdivision, that employs 25 or more employees.
- 25 (4) “Qualified member” means a person who is any of the
26 following:
- 27 (A) A member of the Armed Forces of the United States who
28 has been deployed during a period of military conflict to an area
29 designated as a combat theater or combat zone by the President of
30 the United States.
31 (B) A member of the National Guard who has been deployed
32 during a period of military conflict.
33 (C) A member of the Reserves who has been deployed during
34 a period of military conflict.
- 35 (5) “Qualified leave period” means the period during which the
36 qualified member is on leave from deployment during a period of
37 military conflict.
- 38 (c) A qualified employer shall not retaliate against a qualified
39 employee for requesting or taking the leave provided for in this
40 section.

1 (d) The leave provided for in this section shall not affect or
2 prevent a qualified employer from allowing a qualified employee
3 to take a leave that the qualified employee is otherwise entitled to
4 take.

5 (e) This section shall not affect a qualified employee's rights
6 with respect to any other employee benefit provided for in other
7 laws.