

AMENDED IN ASSEMBLY AUGUST 25, 2000

AMENDED IN SENATE APRIL 10, 2000

SENATE BILL

No. 1950

Introduced by Senator Lewis

February 24, 2000

An act to amend Sections 395 ~~and 395.01~~, 395.01, and 395.03 of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1950, as amended, Lewis. Military leave: ~~inactive duty training.~~

Under existing law, a public employee who is a member of the reserve corps of the armed forces of the United States or of the National Guard or the Naval *Militia* is entitled to a temporary military leave of absence for active military training, if certain requirements are met. The employee is entitled to receive his or her pay as a public employee for the first 30 days of the leave period, not to exceed 30 days in one fiscal year. Inactive duty training does not qualify for paid leave.

This bill would revise these provisions in conformity with recent changes in federal law to provide that inactive duty training also qualifies for paid leave. ~~By requiring local government entities to provide these additional benefits to their employees, the bill imposes a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated~~

~~by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

This bill would authorize, but not require, a local public agency to provide paid leave for inactive duty training.

This bill would authorize a public agency to provide pay for a period of more than 30 calendar days for active duty training.

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

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

1 SECTION 1. Section 395 of the Military and Veterans
2 Code is amended to read:

3 395. (a) Any public employee who is a member of the
4 reserve corps of the armed forces of the United States or
5 of the National Guard or the Naval Militia is entitled to a
6 temporary military leave of absence as provided by
7 federal law while engaged in military duty ordered for
8 purposes of active military training, inactive duty
9 training, encampment, naval cruises, special exercises or
10 like activity, providing that the period of ordered duty
11 does not exceed 180 calendar days, including time
12 involved in going to and returning from that duty.

13 (b) *Notwithstanding subdivision (a), a local public*
14 *agency may, but is not required to, provide paid military*
15 *leave of absence for periods of inactive duty training.*

16 ~~The~~
17 (c) *The* employee has an absolute right to be restored
18 to the former office or position and status formerly had by
19 him or her in the same locality and in the same office,
20 board, commission, agency, or institution of the public
21 agency upon the termination of temporary military duty.



1 If the office or position has been abolished or otherwise
2 has ceased to exist during his or her absence, he or she
3 shall be reinstated to a position of like seniority, status,
4 and pay if a position exists, or if no position exists the
5 employee shall have the same rights and privileges that
6 he or she would have had if he or she had occupied the
7 position when it ceased to exist and had not taken
8 temporary military leave of absence.

9 ~~Any~~

10 (d) Any public employee who has been in the service
11 of the public agency from which the leave is taken for a
12 period of not less than one year immediately prior to the
13 date upon which a temporary military leave of absence
14 begins, shall receive the same vacation, sick leave, and
15 holiday privileges and the same rights and privileges to
16 promotion, continuance in office, employment,
17 reappointment to office, or reemployment that the
18 employee would have enjoyed had he or she not been
19 absent therefrom; excepting that an uncompleted
20 probationary period, if any, in the public agency, must be
21 completed upon reinstatement as provided by law or rule
22 of the agency. For the purposes of this section, in
23 determining the one year of service in a public agency all
24 service of the employee in recognized military service
25 shall be counted as public agency service.

26 ~~If~~

27 (e) If this section is in conflict with a memorandum of
28 understanding reached pursuant to Chapter 12
29 (commencing with Section 3560) of Division 4 of Title 1
30 of the Government Code, the memorandum of
31 understanding shall be controlling without further
32 legislative action, except that if the memorandum of
33 understanding requires the expenditure of funds, it shall
34 not become effective unless approved by the Legislature
35 in the annual Budget Act.

36 SEC. 2. Section 395.01 of the Military and Veterans
37 Code is amended to read:

38 395.01. (a) Any public employee who is on
39 temporary military leave of absence for military duty
40 ordered for purposes of active military training, inactive



1 duty training, encampment, naval cruises, special
2 exercises, or like activity as such member, provided that
3 the period of ordered duty does not exceed 180 calendar
4 days including time involved in going to and returning
5 from the duty, and who has been in the service of the
6 public agency from which the leave is taken for a period
7 of not less than one year immediately prior to the day on
8 which the absence begins, is entitled to receive his or her
9 salary or compensation as a public employee for the first
10 30 calendar days of any such absence. Pay for those
11 purposes may not exceed 30 days in any one fiscal year.
12 For the purposes of this section, in determining the one
13 year of public agency service, all service of a public
14 employee in the recognized military service shall be
15 counted as public agency service.

16 (b) *Notwithstanding subdivision (a), a local public*
17 *agency may, but is not required to, pay an employee*
18 *during a period of inactive duty training.*

19 (c) If the provisions of this section are in conflict with
20 the provisions of a memorandum of understanding
21 reached pursuant to Chapter 12 (commencing with
22 Section 3560) of Division 4, of Title 1 of the Government
23 Code, the memorandum of understanding shall be
24 controlling without further legislative action, except that
25 if ~~such~~ *those* provisions of a memorandum of
26 understanding require the expenditure of funds, the
27 provisions shall not become effective unless approved by
28 the Legislature in the annual Budget Act.

29 ~~SEC. 3. Notwithstanding Section 17610 of the~~
30 ~~Government Code, if the Commission on State Mandates~~
31 ~~determines that this act contains costs mandated by the~~
32 ~~state, reimbursement to local agencies and school~~
33 ~~districts for those costs shall be made pursuant to Part 7~~
34 ~~(commencing with Section 17500) of Division 4 of Title~~
35 ~~2 of the Government Code. If the statewide cost of the~~
36 ~~claim for reimbursement does not exceed one million~~
37 ~~dollars (\$1,000,000), reimbursement shall be made from~~
38 ~~the State Mandates Claims Fund.~~

39 *SEC. 3. Section 395.03 of the Military and Veterans*
40 *Code is amended to read:*



1 395.03. No more than the pay for a period of 30
2 calendar days shall be allowed under the provisions of
3 ~~Sections~~ *Section 395.01 and or 395.02, or both,* for any one
4 military leave of absence or during any one fiscal year,
5 *except as otherwise authorized by resolution of the*
6 *legislative body of a public agency or as provided in a*
7 *memorandum of understanding reached with an*
8 *employee organization pursuant to Chapter 10*
9 *(commencing with Section 3500) of Division 4 of Title 1*
10 *of the Government Code.*

O

