

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 173 Session of
2011

INTRODUCED BY MILLER, CLYMER, CUTLER, FLECK, GINGRICH, GROVE,
HENNESSEY, HESS, HORNAMAN, HUTCHINSON, KNOWLES, MAJOR,
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VULAKOVICH, DENLINGER, QUINN, FARRY AND MURT,
JANUARY 24, 2011

AS REPORTED FROM COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 23,
2012

AN ACT

1 Amending Title 51 (Military Affairs) of the Pennsylvania
2 Consolidated Statutes, in rights and immunities, further
3 providing for leaves of absence for certain government
4 employees.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 ~~Section 1. Section 4102 of Title 51 of the Pennsylvania~~ ←
8 ~~Consolidated Statutes is amended to read:~~

9 ~~§ 4102. Leaves of absence for certain government employees.~~

10 ~~(a) Mandatory leave.~~

11 ~~(1) The following shall apply:~~

12 ~~(i) All officers and employees of a political~~
13 ~~subdivision, or its instrumentalities, who are members of~~
14 ~~the Pennsylvania National Guard, shall be [entitled to~~
15 ~~leave of absence from their respective duties without~~
16 ~~loss of pay, time or efficiency rating on all days during~~

1 ~~which they shall, as members of the Pennsylvania National~~
2 ~~Guard, be engaged in active State duty. All such officers~~
3 ~~and employees shall, in addition, be] entitled to a leave~~
4 ~~of absence from their respective duties, in addition to~~
5 ~~regular vacation time, without loss of pay, time or~~
6 ~~efficiency rating on all days not exceeding 15~~
7 ~~consecutive or nonconsecutive days in any one year during~~
8 ~~which they shall, as members of the Pennsylvania National~~
9 ~~Guard [or], be engaged in State active duty or, as~~
10 ~~members of any reserve component of the armed forces of~~
11 ~~the United States, be engaged in training or other~~
12 ~~military duty under orders authorized by Federal or State~~
13 ~~law.~~

14 ~~(ii) All such officers and employees shall, in~~
15 ~~addition, be entitled to unpaid leave of absence from~~
16 ~~their respective duties without loss of seniority or~~
17 ~~efficiency rating on all days in excess of the first 15~~
18 ~~consecutive or nonconsecutive days per year during which~~
19 ~~they shall be engaged in training or other military duty~~
20 ~~under orders authorized by Federal or State law up to the~~
21 ~~maximum cumulative period authorized by 38 U.S.C. Ch. 43~~
22 ~~(relating to employment and reemployment rights of~~
23 ~~members of the uniformed services).~~

24 ~~(2) The following shall apply:~~

25 ~~(i) All officers and employees of the Commonwealth~~
26 ~~or its instrumentalities who are members of the~~
27 ~~Pennsylvania National Guard shall be [entitled to leave~~
28 ~~of absence from their respective duties without loss of~~
29 ~~pay, time or efficiency rating on all days during which~~
30 ~~they shall, as members of the Pennsylvania National~~

Guard, be engaged in active State duty. All such officers and employees shall, in addition, be entitled to a leave of absence from their respective duties, in addition to regular vacation time, without loss of pay, time or efficiency rating on all days not exceeding 15 consecutive or nonconsecutive days in any one year during which they shall, as members of the Pennsylvania National Guard [or], be engaged in State active duty or, as members of any reserve component of the armed forces of the United States, be engaged in training or other military duty under orders authorized by Federal or State law. [In addition, when such]

~~(ii) Such officers and employees, when ordered to active duty for more than 30 days, other than active duty for training, shall be entitled to up to 15 days of additional military leave of absence in any one year, in addition to regular vacation time, without loss of pay, time or efficiency rating under the following conditions:~~

~~(A) When ordered, involuntarily or under a Contingency Operations Temporary Tour of Active Duty (COTTAD) agreement; or~~

~~(B) When ordered voluntarily to serve in a combat zone or in response to a domestic emergency[, to active duty, other than active duty for training, for a period of 30 or more consecutive days and].~~

~~(iii) Clauses (A) and (B) shall apply only to officers and employees who have been assigned to duties away from home station, and when such duty is ordered under 10 U.S.C. § 12301 (relating to Reserve components generally), 12302 (relating to Ready Reserve) or 12304~~

~~(relating to Selected Reserve and certain Individual Ready Reserve members; order to active duty other than during war or national emergency) or 32 U.S.C. § 502 (f) (relating to required drills and field exercises), [they] the officers and employees shall be entitled to up to 15 days of additional military leave of absence in any one year without loss of pay, time and efficiency rating.~~

~~(iv) All such officers and employees shall, in addition, be entitled to unpaid leave of absence from their respective duties without loss of seniority or efficiency rating on all days in excess of 30 days per year during which they shall be engaged in training or other military duty under orders authorized by Federal or State law up to the maximum cumulative period authorized by 38 U.S.C. Ch. 43.~~

~~(b) Discretionary leave. The Commonwealth, its instrumentalities and political subdivisions [thereof] and their instrumentalities shall be authorized and permitted to provide paid military leave or other compensation and/or continue medical and other benefits to members of the Pennsylvania National Guard and other reserve components of the United States Armed Forces for days in excess of those provided in subsection (a) when the member shall be engaged in training or other military duty under orders authorized by Federal or State law.~~

~~(c) Return from leave. An officer or employee to whom this section applies shall not be required to return to duty within 18 hours of having been relieved of Federal or State active duty, but the officer or employee may choose to return to duty within that period of time.~~

~~(d) Definition. For purposes of this section, the allotted~~

~~work time of an officer or employee shall be calculated in days,
and hours shall not be used for calculating military leave time.
As used in this subsection, the term "day" shall mean a solar
day of 24 hours, regardless of the portion of the day allotted
to work.~~

~~Section 2. This act shall take effect immediately.~~

SECTION 1. SECTION 4102 OF TITLE 51 OF THE PENNSYLVANIA
CONSOLIDATED STATUTES IS AMENDED TO READ:

§ 4102. LEAVES OF ABSENCE FOR CERTAIN GOVERNMENT EMPLOYEES.

(A) MANDATORY.--

[(1) ALL OFFICERS AND EMPLOYEES OF A POLITICAL
SUBDIVISION, OR ITS INSTRUMENTALITIES, WHO ARE MEMBERS OF THE
PENNSYLVANIA NATIONAL GUARD, SHALL BE ENTITLED TO LEAVE OF
ABSENCE FROM THEIR RESPECTIVE DUTIES WITHOUT LOSS OF PAY,
TIME OR EFFICIENCY RATING ON ALL DAYS DURING WHICH THEY
SHALL, AS MEMBERS OF THE PENNSYLVANIA NATIONAL GUARD, BE
ENGAGED IN ACTIVE STATE DUTY. ALL SUCH OFFICERS AND EMPLOYEES
SHALL, IN ADDITION, BE ENTITLED TO LEAVE OF ABSENCE FROM
THEIR RESPECTIVE DUTIES WITHOUT LOSS OF PAY, TIME OR
EFFICIENCY RATING ON ALL DAYS NOT EXCEEDING 15 DAYS IN ANY
ONE YEAR DURING WHICH THEY SHALL, AS MEMBERS OF THE
PENNSYLVANIA NATIONAL GUARD OR AS MEMBERS OF ANY RESERVE
COMPONENT OF THE ARMED FORCES OF THE UNITED STATES, BE
ENGAGED IN TRAINING OR OTHER MILITARY DUTY UNDER ORDERS
AUTHORIZED BY FEDERAL OR STATE LAW. ALL SUCH OFFICERS AND
EMPLOYEES SHALL, IN ADDITION, BE ENTITLED TO UNPAID LEAVE OF
ABSENCE FROM THEIR RESPECTIVE DUTIES WITHOUT LOSS OF
SENIORITY OR EFFICIENCY RATING ON ALL DAYS IN EXCESS OF 15
DAYS PER YEAR DURING WHICH THEY SHALL BE ENGAGED IN TRAINING
OR OTHER MILITARY DUTY UNDER ORDERS AUTHORIZED BY FEDERAL OR

1 STATE LAW UP TO THE MAXIMUM CUMULATIVE PERIOD AUTHORIZED BY
2 38 U.S.C. CH. 43 (RELATING TO EMPLOYMENT AND REEMPLOYMENT
3 RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES) .

4 (2) ALL OFFICERS AND EMPLOYEES OF THE COMMONWEALTH OR
5 ITS INSTRUMENTALITIES WHO ARE MEMBERS OF THE PENNSYLVANIA
6 NATIONAL GUARD SHALL BE ENTITLED TO LEAVE OF ABSENCE FROM
7 THEIR RESPECTIVE DUTIES WITHOUT LOSS OF PAY, TIME OR
8 EFFICIENCY RATING ON ALL DAYS DURING WHICH THEY SHALL, AS
9 MEMBERS OF THE PENNSYLVANIA NATIONAL GUARD, BE ENGAGED IN
10 ACTIVE STATE DUTY. ALL SUCH OFFICERS AND EMPLOYEES SHALL, IN
11 ADDITION, BE ENTITLED TO LEAVE OF ABSENCE FROM THEIR
12 RESPECTIVE DUTIES WITHOUT LOSS OF PAY, TIME OR EFFICIENCY
13 RATING ON ALL DAYS NOT EXCEEDING 15 DAYS IN ANY ONE YEAR
14 DURING WHICH THEY SHALL, AS MEMBERS OF THE PENNSYLVANIA
15 NATIONAL GUARD OR AS MEMBERS OF ANY RESERVE COMPONENT OF THE
16 ARMED FORCES OF THE UNITED STATES, BE ENGAGED IN TRAINING OR
17 OTHER MILITARY DUTY UNDER ORDERS AUTHORIZED BY FEDERAL OR
18 STATE LAW. IN ADDITION, WHEN SUCH OFFICERS AND EMPLOYEES
19 SHALL BE ORDERED, INVOLUNTARILY OR UNDER A CONTINGENCY
20 OPERATIONS TEMPORARY TOUR OF ACTIVE DUTY (COTTAD) AGREEMENT
21 OR VOLUNTARILY TO SERVE IN A COMBAT ZONE OR IN RESPONSE TO A
22 DOMESTIC EMERGENCY, TO ACTIVE DUTY, OTHER THAN ACTIVE DUTY
23 FOR TRAINING, FOR A PERIOD OF 30 OR MORE CONSECUTIVE DAYS AND
24 ASSIGNED TO DUTIES AWAY FROM HOME STATION AND WHEN SUCH DUTY
25 IS ORDERED UNDER 10 U.S.C. § 12301 (RELATING TO RESERVE
26 COMPONENTS GENERALLY), 12302 (RELATING TO READY RESERVE) OR
27 12304 (RELATING TO SELECTED RESERVE AND CERTAIN INDIVIDUAL
28 READY RESERVE MEMBERS; ORDER TO ACTIVE DUTY OTHER THAN DURING
29 WAR OR NATIONAL EMERGENCY) OR 32 U.S.C. § 502(F) (RELATING TO
30 REQUIRED DRILLS AND FIELD EXERCISES), THEY SHALL BE ENTITLED

1 TO UP TO 15 DAYS OF ADDITIONAL MILITARY LEAVE OF ABSENCE IN
2 ANY ONE YEAR WITHOUT LOSS OF PAY, TIME AND EFFICIENCY RATING.
3 ALL SUCH OFFICERS AND EMPLOYEES SHALL, IN ADDITION, BE
4 ENTITLED TO UNPAID LEAVE OF ABSENCE FROM THEIR RESPECTIVE
5 DUTIES WITHOUT LOSS OF SENIORITY OR EFFICIENCY RATING ON ALL
6 DAYS IN EXCESS OF 30 DAYS PER YEAR DURING WHICH THEY SHALL BE
7 ENGAGED IN TRAINING OR OTHER MILITARY DUTY UNDER ORDERS
8 AUTHORIZED BY FEDERAL OR STATE LAW UP TO THE MAXIMUM
9 CUMULATIVE PERIOD AUTHORIZED BY 38 U.S.C. CH. 43.]

10 (1) THE FOLLOWING SHALL APPLY TO PAID MILITARY LEAVES OF
11 ABSENCE:

12 (I) ALL OFFICERS AND EMPLOYEES OF THE COMMONWEALTH,
13 ITS POLITICAL SUBDIVISIONS OR THEIR INSTRUMENTALITIES
14 SHALL BE ENTITLED TO PAID MILITARY LEAVES OF ABSENCE FROM
15 THEIR RESPECTIVE DUTIES WITHOUT LOSS OF PAY OR EFFICIENCY
16 RATING, AND WITHOUT BEING REQUIRED TO USE ANNUAL VACATION
17 TIME, AS FOLLOWS:

18 (A) ON ALL DAYS DURING WHICH THEY SHALL, AS
19 MEMBERS OF THE PENNSYLVANIA NATIONAL GUARD, BE
20 ENGAGED IN ACTIVE STATE DUTY UNDER SECTION 508
21 (RELATING TO ACTIVE DUTY FOR EMERGENCY).

22 (B) ON ALL DAYS NOT EXCEEDING 15 CONSECUTIVE OR
23 NONCONSECUTIVE DAYS IN ANY ONE CALENDAR YEAR DURING
24 WHICH THEY SHALL, AS MEMBERS OF THE PENNSYLVANIA
25 NATIONAL GUARD OR AS MEMBERS OF ANY RESERVE COMPONENT
26 OF THE ARMED FORCES OF THE UNITED STATES, BE ENGAGED
27 IN TRAINING OR OTHER MILITARY DUTY UNDER ORDERS
28 AUTHORIZED BY FEDERAL OR STATE LAW.

29 (II) ALL OFFICERS AND EMPLOYEES OF THE COMMONWEALTH
30 OR ITS INSTRUMENTALITIES, EXCEPT FOR OFFICERS AND

1 EMPLOYEES OF POLITICAL SUBDIVISIONS AND THEIR
2 INSTRUMENTALITIES, SHALL BE ENTITLED TO UP TO 15 DAYS OF
3 PAID MILITARY LEAVE IN ADDITION TO THE LEAVE UNDER
4 SUBPARAGRAPH (I) IN ANY ONE CALENDAR YEAR IF THE OFFICERS
5 AND EMPLOYEES ARE ORDERED TO ACTIVE DUTY, OTHER THAN
6 ACTIVE DUTY FOR TRAINING, AND ALL OF THE FOLLOWING APPLY:

7 (A) THE DUTY IS ORDERED FOR A PERIOD OF AT LEAST
8 30 CONSECUTIVE DAYS.

9 (B) THE DUTY IS INVOLUNTARY OR IS PERFORMED IN A
10 ZONE OF COMBAT, IN RESPONSE TO A DOMESTIC EMERGENCY
11 OR PURSUANT TO A CONTINGENCY OPERATIONS SERVICE
12 AGREEMENT.

13 (C) THE DUTY IS PERFORMED WHILE THE MEMBER IS
14 DEPLOYED AT LEAST 50 MILES AWAY FROM BOTH THE
15 MEMBER'S HOME DUTY STATION AND PLACE OF RESIDENCE.

16 (D) THE DUTY IS ORDERED UNDER 10 U.S.C. §§ 12301
17 (RELATING TO RESERVE COMPONENTS GENERALLY), 12302
18 (RELATING TO READY RESERVE) OR 12304 (RELATING TO
19 SELECTED RESERVE AND CERTAIN INDIVIDUAL READY RESERVE
20 MEMBERS; ORDER TO ACTIVE DUTY OTHER THAN DURING WAR
21 OR NATIONAL EMERGENCY) OR 32 U.S.C. § 502(F)
22 (RELATING TO REQUIRED DRILLS AND FIELD EXERCISES).

23 (2) ALL OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, A
24 POLITICAL SUBDIVISION, OR THEIR INSTRUMENTALITIES SHALL, IN
25 ADDITION TO THE LEAVE PROVIDED UNDER THIS SUBSECTION, BE
26 ENTITLED TO UNPAID MILITARY LEAVE OF ABSENCE, UP TO THE
27 MAXIMUM CUMULATIVE PERIOD AUTHORIZED BY 38 U.S.C. CH. 43
28 (RELATING TO EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF
29 THE UNIFORMED SERVICES), FROM THEIR RESPECTIVE DUTIES WITHOUT
30 LOSS OF SENIORITY OR EFFICIENCY RATING AND WITHOUT BEING

1 REQUIRED TO USE ANNUAL VACATION TIME ON ALL DAYS DURING

2 WHICH:

3 (I) THEY ARE ENGAGED IN TRAINING OR OTHER MILITARY
4 DUTY UNDER ORDERS AUTHORIZED BY FEDERAL OR STATE LAW; AND

5 (II) THEY ARE NOT ON PAID MILITARY LEAVE OF ABSENCE.

6 (B) DISCRETIONARY LEAVE.--THE COMMONWEALTH, ITS
7 INSTRUMENTALITIES AND POLITICAL SUBDIVISIONS [THEREOF] AND THEIR
8 INSTRUMENTALITIES SHALL BE AUTHORIZED AND PERMITTED TO PROVIDE
9 PAID MILITARY LEAVE OR OTHER COMPENSATION AND/OR CONTINUE
10 MEDICAL AND OTHER BENEFITS TO MEMBERS OF THE PENNSYLVANIA
11 NATIONAL GUARD AND OTHER RESERVE COMPONENTS OF THE UNITED STATES
12 ARMED FORCES FOR DAYS IN EXCESS OF THOSE PROVIDED IN SUBSECTION

13 (A) WHEN THE MEMBER SHALL BE ENGAGED IN TRAINING OR OTHER
14 MILITARY DUTY UNDER ORDERS AUTHORIZED BY FEDERAL OR STATE LAW.

15 (C) RETURN FROM LEAVE.--

16 (1) ALL OFFICERS AND EMPLOYEES OF THE COMMONWEALTH, ITS
17 POLITICAL SUBDIVISIONS OR THEIR INSTRUMENTALITIES SHALL NOT
18 BE REQUIRED TO REPORT BACK TO THE EMPLOYER EARLIER THAN
19 EITHER OF THE FOLLOWING:

20 (I) THE BEGINNING OF THE FIRST FULL REGULARLY
21 SCHEDULED WORK PERIOD ON THE FIRST FULL CALENDAR DAY
22 FOLLOWING THE COMPLETION OF THE PERIOD OF MILITARY
23 SERVICE.

24 (II) THE EXPIRATION OF EIGHT HOURS AFTER A PERIOD
25 ALLOWING FOR SAFE TRANSPORTATION FROM THE PLACE OF THAT
26 SERVICE TO THE EMPLOYEE'S RESIDENCE.

27 (2) AN OFFICER OR EMPLOYEE MAY VOLUNTARILY CHOOSE TO
28 RETURN TO DUTY WITHIN THE PERIOD OF TIME UNDER PARAGRAPH (1).

29 (D) CALCULATION OF LEAVE.--

30 (1) MILITARY LEAVES OF ABSENCE SHALL BE CALCULATED OR

1 ALLOTTED IN WHOLE WORK DAYS. MILITARY LEAVES OF ABSENCE MAY
2 NOT BE CALCULATED OR ALLOTTED ON AN HOUR-BY-HOUR BASIS.

3 (2) AN EMPLOYEE WHO IS ON PAID OR UNPAID MILITARY LEAVE
4 OF ABSENCE FOR A SHIFT THAT EXTENDS INTO TWO CONSECUTIVE
5 CALENDAR DAYS SHALL BE CHARGED WITH ONLY ONE DAY OF MILITARY
6 LEAVE IF THE EMPLOYEE RETURNS TO WORK FOR THE NEXT REGULAR
7 SHIFT.

8 (3) AS USED IN THIS SUBSECTION, THE TERM "DAY" SHALL
9 MEAN A CALENDAR DAY OF 24 HOURS' DURATION.

10 SECTION 2. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.