

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 88 Session of 2013

INTRODUCED BY MILLER, GINGRICH, AUMENT, M. K. KELLER, HESS, SWANGER, FLECK, HENNESSEY, QUINN, MCGEEHAN, TALLMAN, KORTZ, PICKETT, BIZZARRO, COHEN, READSHAW, DAVIDSON, ROCK, EVANKOVICH, GROVE, MURT, DENLINGER, OBERLANDER, FARRY, EVERETT, GILLEN, MATZIE, GABLER AND CALTAGIRONE, JANUARY 10, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, FEBRUARY 4, 2013

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.--

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

1 engaged in active State duty. All such officers and employees
2 shall, in addition, be entitled to leave of absence from
3 their respective duties without loss of pay, time or
4 efficiency rating on all days not exceeding 15 days in any
5 one year during which they shall, as members of the
6 Pennsylvania National Guard or as members of any reserve
7 component of the armed forces of the United States, be
8 engaged in training or other military duty under orders
9 authorized by Federal or State law. All such officers and
10 employees shall, in addition, be entitled to unpaid leave of
11 absence from their respective duties without loss of
12 seniority or efficiency rating on all days in excess of 15
13 days per year during which they shall be engaged in training
14 or other military duty under orders authorized by Federal or
15 State law up to the maximum cumulative period authorized by
16 38 U.S.C. Ch. 43 (relating to employment and reemployment
17 rights of members of the uniformed services).

18 (2) All officers and employees of the Commonwealth or
19 its instrumentalities who are members of the Pennsylvania
20 National Guard shall be entitled to leave of absence from
21 their respective duties without loss of pay, time or
22 efficiency rating on all days during which they shall, as
23 members of the Pennsylvania National Guard, be engaged in
24 active State duty. All such officers and employees shall, in
25 addition, be entitled to leave of absence from their
26 respective duties without loss of pay, time or efficiency
27 rating on all days not exceeding 15 days in any one year
28 during which they shall, as members of the Pennsylvania
29 National Guard or as members of any reserve component of the
30 armed forces of the United States, be engaged in training or

1 other military duty under orders authorized by Federal or
2 State law. In addition, when such officers and employees
3 shall be ordered, involuntarily or under a Contingency
4 Operations Temporary Tour of Active Duty (COTTAD) agreement
5 or voluntarily to serve in a combat zone or in response to a
6 domestic emergency, to active duty, other than active duty
7 for training, for a period of 30 or more consecutive days and
8 assigned to duties away from home station and when such duty
9 is ordered under 10 U.S.C. § 12301 (relating to Reserve
10 components generally), 12302 (relating to Ready Reserve) or
11 12304 (relating to Selected Reserve and certain Individual
12 Ready Reserve members; order to active duty other than during
13 war or national emergency) or 32 U.S.C. § 502(f) (relating to
14 required drills and field exercises), they shall be entitled
15 to up to 15 days of additional military leave of absence in
16 any one year without loss of pay, time and efficiency rating.
17 All such officers and employees shall, in addition, be
18 entitled to unpaid leave of absence from their respective
19 duties without loss of seniority or efficiency rating on all
20 days in excess of 30 days per year during which they shall be
21 engaged in training or other military duty under orders
22 authorized by Federal or State law up to the maximum
23 cumulative period authorized by 38 U.S.C. Ch. 43.]

24 (1) The following shall apply to paid military leaves of
25 absence:

26 (i) All officers and employees of the Commonwealth,
27 its political subdivisions or their instrumentalities
28 shall be entitled to paid military leaves of absence from
29 their respective duties without loss of pay or efficiency
30 rating, and without being required to use annual vacation

1 time, as follows:

2 (A) On all days during which they shall, as
3 members of the Pennsylvania National Guard, be
4 engaged in active State duty under section 508
5 (relating to active duty for emergency).

6 (B) On all days not exceeding 15 consecutive or
7 nonconsecutive days in any one calendar year during <--
8 which they shall, as members of the Pennsylvania
9 National Guard or as members of any reserve component
10 of the armed forces of the United States, be engaged
11 in training or other military duty under orders
12 authorized by Federal or State law.

13 (ii) All officers and employees of the Commonwealth
14 or its instrumentalities, except for officers and
15 employees of political subdivisions and their
16 instrumentalities, shall be entitled to up to 15 days of
17 paid military leave in addition to the leave under
18 subparagraph (i) in any one calendar year if the officers <--
19 and employees are ordered to active duty, other than
20 active duty for training, and all of the following apply:

21 (A) The duty is ordered for a period of at least
22 30 consecutive days.

23 (B) The duty is involuntary or is performed in a
24 zone of combat, in response to a domestic emergency
25 or pursuant to a contingency operations service
26 agreement.

27 (C) The duty is performed while the member is
28 deployed at least 50 miles away from both the
29 member's home duty station and place of residence.

30 (D) The duty is ordered under 10 U.S.C. § 12301

1 (relating to Reserve components generally), 12302
2 (relating to Ready Reserve) or 12304 (relating to
3 Selected Reserve and certain Individual Ready Reserve
4 members; order to active duty other than during war
5 or national emergency) or 32 U.S.C. § 502(f)
6 (relating to required drills and field exercises).

7 (2) All officers and employees of the Commonwealth, a
8 political subdivision, or their instrumentalities shall, in
9 addition to the leave provided under this subsection, be
10 entitled to unpaid military leave of absence, up to the
11 maximum cumulative period authorized by 38 U.S.C. Ch. 43
12 (relating to employment and reemployment rights of members of
13 the uniformed services), from their respective duties without
14 loss of seniority or efficiency rating and without being
15 required to use annual vacation time on all days during
16 which:

17 (i) they are engaged in training or other military
18 duty under orders authorized by Federal or State law; and

19 (ii) they are not on paid military leave of absence.

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

29 ~~(c) Return from leave.~~

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30 ~~(1) All officers and employees of the Commonwealth, its~~

~~political subdivisions or their instrumentalities shall not be required to report back to the employer earlier than either of the following:~~

~~(i) The beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of military service.~~

~~(ii) The expiration of eight hours after a period allowing for safe transportation from the place of that service to the employee's residence.~~

~~(2) An officer or employee may voluntarily choose to return to duty within the period of time under paragraph (1).~~

~~(d) Calculation of leave.~~

~~(1) Military leaves of absence shall be calculated or allotted in whole work days. Military leaves of absence may not be calculated or allotted on an hour by hour basis.~~

~~(C) CALCULATION OF LEAVE.--~~

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~~(1) AN EMPLOYEE WHO IS ON PAID OR UNPAID MILITARY LEAVE FOR A PERIOD ENCOMPASSING ONE ENTIRE CALENDAR DAY SHALL BE CHARGED WITH ONE DAY'S MILITARY LEAVE ON EACH WORKDAY NOTWITHSTANDING THE NUMBER OF HOURS ENCOMPASSED IN THE EMPLOYEE'S WORKDAY. AN EMPLOYEE ON PAID MILITARY LEAVE SHALL BE PAID FOR THE LEAVE BASED ON THE COMPENSATION DUE FOR THE LEAVE PERIOD.~~

~~(2) An employee who is on paid or unpaid military leave of absence for a shift that extends into two consecutive calendar days shall be charged with only one day of military leave if the employee returns to work for the next regular shift.~~

~~(3) As used in this subsection, the term "day" shall~~

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1 ~~mean a calendar day of 24 hours' duration.~~

2 Section 2. This act shall take effect immediately.