

Regular Session, 2005

SENATE BILL NO. 118

BY SENATOR BARHAM

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MILITARY AFFAIRS. Provides with respect to certain rights for employees who are in the uniformed services and called to active duty.

1 AN ACT
2 To amend and reenact R.S. 29:406(A) and (C) and 410(A)(introductory paragraph) and
3 (A)(3), (E)(1)(introductory paragraph), (E)(1)(c) and (d), (E)(2)(a), (E)(3), and
4 (F)(1)(introductory paragraph) and to enact R.S. 29:410(E)(4), relative to the
5 Military Service Relief Act; to provide with respect to certain rights for employees
6 who are in the uniformed services and called to active duty and who wish to return
7 to positions of employment held prior to active duty service; to provide with respect
8 to notification and accrual and entitlement to vacation leave; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 29:406(A) and (C) and 410(A)(introductory paragraph) and (A)(3),
12 (E)(1)(introductory paragraph), (E)(1)(c) and (d), (E)(2)(a), (E)(3), and (F)(1)(introductory
13 paragraph) are hereby amended and reenacted and R.S. 29:410(E)(4) is hereby enacted to
14 read as follows:

15 §406. Leave status

16 A. Any employee who leaves employment in order to perform service in the
17 uniformed services shall be treated as being on military leave of absence during the

1 period of service in the uniformed services, provided that he ~~applies for~~
2 reemployment reports for, or notifies the employer in writing of the intent to
3 return to, a position of employment in accordance with R.S. 29:410.

4 * * *

5 C. The employee shall continue to accrue sick leave, annual leave, vacation
6 leave, or military leave on the same basis as he would have accrued such leave
7 during the period of service in the uniformed services. Accrual and entitlement to
8 vacation leave shall be determined by the state vacation policy of the employer
9 subject to R.S. 23:631, et seq.

10 * * *

11 §410. Right of reinstatement to former employment

12 A. Any person who is absent from a position of employment by reason of
13 service in the uniformed services shall be entitled to the reemployment rights and
14 benefits and other employment benefits of this Part, within ten days of application
15 for reemployment, if all of the following conditions are met:

16 * * *

17 (3) Except as provided in Subsection F, the person reports to, ~~or submits an~~
18 ~~application for reemployment to,~~ for, or notifies the employer in writing of the
19 intent to return to, a position of employment, to such employer in accordance with
20 the provisions of Subsection E.

21 * * *

22 E.(1) Subject to Paragraph (2), a person referred to in Subsection A shall,
23 upon the completion of a period of service in the uniformed services, report for, or
24 notify the employer referred to in such Subsection of the person's intent to return to,
25 a position of employment with such employer as follows:

26 * * *

27 (c) In the case of a person whose period of service in the uniformed services
28 was for more than thirty days but less than one hundred eighty-one days, ~~by~~
29 ~~submitting an application for reemployment~~ by notifying the employer in writing

1 **with this and the other provisions of the Military Service Relief Act.**

2 F.(1) A person who submits ~~an application for reemployment~~ **written notice**
3 in accordance with Subparagraph (c) or (d) of Paragraph E(1) or (2) shall provide to
4 the person's employer (upon the request of such employer) documentation to
5 establish the following:

6 * * *

7 I. Any employee, who ~~applies for reemployment~~ **reports for, or submits**
8 **written notice of the intent to return to, a position of employment** in accordance
9 with the provisions of this law, shall be entitled to complete any training program
10 that was applicable to his former position of employment during his period of service
11 in the uniformed services.

12 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Thomas F. Wade.

DIGEST

Present law provides certain rights and privileges afforded to employees who are citizens of this state who perform service in the uniformed services of the United States. Provides certain rights with respect to leave status and reemployment rights, in addition to other rights and privileges.

Present law provides procedures for the employee who has completed his active duty to follow in applying for reemployment with his former employer.

Proposed law provides procedures for such employee to follow in notifying his employer of his intention to return to his employment.

Proposed law provides that nothing therein restricts an employer's right to condition reemployment on its policies and procedures applicable to employees returning from leave, provided such policies and procedures are not in conflict with this and the other provisions of the Military Service Relief Act.

(Amends R.S. 29:406(A) and (C); R.S. 29:410(A)(intro para) and (A)(3), (E)(1)(intro para), (E)(1)(c) and (d), (E)(2)(a), (E)(3), and (F)(1)(intro para); adds R.S. 29:410(E)(4))