

Regular Session, 2005

SENATE BILL NO. 118

BY SENATORS BARHAM, CHEEK, CRAVINS, LENTINI, MURRAY AND NEVERS

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 notifies the employer in writing of the intent to return to, a  
3 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.~~ if he had not been  
8 performing service in the uniformed services.

9 \* \* \*

10 §410. Right of reinstatement to former employment

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

15 \* \* \*

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

20 \* \* \*

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

25 \* \* \*

26 (c) In the case of a person whose period of service in the uniformed services  
27 was for more than thirty days but less than one hundred eighty-one days, ~~by~~  
28 ~~submitting an application for reemployment~~ by notifying the employer in writing  
29 of the intent to return to a position of employment with the employer not later

1 than fourteen days after the completion of the period of service or if submitting such  
2 ~~application~~ **written notice** within such period is impossible or unreasonable through  
3 no fault of the person, the next first full calendar day when submission of such  
4 ~~application~~ **written notice** becomes possible.

5 (d) In the case of a person whose period of service in the uniformed services  
6 was for more than one hundred eighty days, by ~~submitting an application for~~  
7 ~~reemployment~~ **notifying the employer in writing of the intent to return to a**  
8 **position of employment** with the employer not later than ninety days after the  
9 completion of the period of service.

10 (2)(a) A person who is hospitalized for, or convalescing from, an illness or  
11 injury incurred in, or aggravated during, the performance of service in the uniformed  
12 services shall, at the end of the period that is necessary for the person to recover from  
13 such illness or injury, report to the person's employer (in the case of a person  
14 described in Subparagraph (a) or (b) of Paragraph (1)) or submit ~~an application for~~  
15 ~~reemployment with~~ **written notice to** such employer (in the case of a person  
16 described in Subparagraph (c) or (d) of such Paragraph). Except as provided in  
17 Subparagraph (b), such period of recovery may not exceed two years.

18 \* \* \*

19 (3) A person who fails to ~~report or apply for employment or reemployment~~  
20 **submit written notice of the intent to return to a position of employment** within  
21 the appropriate period specified in this Subsection shall not automatically forfeit  
22 such person's entitlement to the rights and benefits referred to in Subsection A but  
23 shall be subject to the conduct rules, established policy, and general practices of the  
24 employer pertaining to explanations and discipline with respect to absence from  
25 scheduled work.

26 **(4) Nothing in this Paragraph E shall restrict an employer's right to**  
27 **condition reemployment on its policies and procedures applicable to employees**  
28 **returning from leave, provided such policies and procedures are not in conflict**  
29 **with this and the other provisions of the Military Service Relief Act.**

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

\* \* \*

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

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The original instrument was prepared by Tom Wade. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl Cooper.

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Barham (SB 118)

DIGEST

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

Proposed law allows an employee to accrue sick leave, annual leave, vacation leave, or military leave on the same basis as he would have accrued if he had not been performing service in the uniformed services.

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))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill.

1. Permits employees to accrue sick leave, annual leave, vacation leave, or military leave on the same basis as he would have had he not been in the uniformed services.