

SENATE BILL REPORT

SSB 5263

As Passed Senate, March 10, 2001

Title: An act relating to employment rights of members of the reserve and national guard forces called to duty.

Brief Description: Changing provisions relating to employment rights of members of reserve and national guard forces.

Sponsors: Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Snyder, Rasmussen and Gardner).

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 2/1/01, 2/19/01 [DPS].
Passed Senate: 3/10/01, 47-0.

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: That Substitute Senate Bill No. 5263 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Gardner, Vice Chair; Benton, Fairley, Franklin, Hochstatter, Honeyford, Rasmussen, Regala, West and Winsley.

Staff: Joanne Conrad (786-7472)

Background: Federal law protects the employment rights of members of the national armed services (the Federal Uniformed Services Employment and Reemployment Rights Act of 1994). Washington State does not have a parallel law protecting the employment rights of members of the reserve armed services and Washington State Air National Guard and Army National Guard.

It is believed that a state law would encourage noncareer service in the armed forces, and minimize the disruption to civilian careers.

Summary of Bill: Members of military uniformed services, or applicants for membership in such services, cannot be denied employment, reemployment, job retention, promotion or any benefit of employment on the basis of military service. Employers cannot discriminate against employees based upon their military status, or use that status as a motivating factor—in taking action against them.

However, an employer is not required to reemploy someone who was working in a short-term, nonrecurrent job, or if circumstances have changed so that reemployment would be unreasonable and impose an undue hardship on the employer. The burden of proof is on the employer.

In order to be protected under this law, the worker must have an honorable discharge or other evidence of satisfactory service, and must apply for reemployment in a timely manner.

A worker with employment-based health care coverage can make arrangements to continue the coverage under certain conditions, and may have certain pension rights that continue upon reemployment.

Legal remedies under this law include actions brought against noncompliant employers by the Attorney General, or by private right of action, in cases where a guard and reserve ombudsman is unable to resolve the conflict.

Appropriation: None.

Fiscal Note: Requested on January 23, 2001.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: Some guard members have problems with employers, and they are not covered by federal law if called up for state duty. This bill will help prevent job disruption.

Testimony Against: None.

Testified: Doug Sayan, Employer Support of the Guard and Reserves; Clif Finch, AWB.

House Amendment(s): Many provisions are clarified, including when a private citizen may bring suit; the method of claiming re-employment rights; and the definition of employee- and service in the uniformed services.- Possibly conflicting provisions regarding ERISA are removed.