

HOUSE BILL REPORT

ESSB 5092

*As Reported By House Committee on:
Appropriations*

Title: An act relating to employee benefits while on active duty during operation Desert Shield.

Brief Description: Continuing retirement system membership while on active duty in operation Desert Shield.

Sponsor(s): By Senate Committee on Ways & Means (originally sponsored by Senators Roach, Snyder, Stratton, Amondson, L. Kreidler, McCaslin, Erwin, Newhouse, Niemi, Sellar, Craswell, Gaspard, Hayner, Skratek, L. Smith, Talmadge, Oke, Bauer, Rasmussen, Thorsness, Johnson, Wojahn, Cantu and West).

Brief History:

Reported by House Committee on:
Appropriations, February 24, 1992, DPA.

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *Do pass as amended.* Signed by 23 members: Representatives Locke, Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Appelwick; Belcher; Bowman; Brekke; Carlson; Dorn; Ferguson; Fuhrman; Lisk; May; Mielke; Nealey; Peery; Rust; D. Sommers; Valle; Vance; Wang; and Wineberry.

Staff: Barbara McLain (786-7153).

Background:

Federal Law

Under the federal veterans' reemployment rights law, a person who leaves a job to enter active duty with the armed forces is entitled to be reemployed in a job with similar seniority, status, and pay. "Similar seniority" also means the employee is entitled to any benefits based on seniority, such as retirement credit, as though the employee had not left employment to be in the armed forces. The employee can not be required to make employer contributions to earn the retirement credit.

The returning employee is eligible for these rights if the employee:

- (a) Left the job for the purpose of going on active duty with the armed forces. This includes employees who are drafted, volunteer, or are members of the National Guard or Reserve voluntarily or involuntarily are called to active duty;
- (b) Remains on active duty no longer than four years;
- (c) Receives an honorable discharge; and
- (d) Applies for reemployment with the same employer within 90 days of separation from active duty.

State Law

Plan I of the state's retirement systems already allows members who leave employment to receive up to five years of retirement service credit for military service, without paying the employer contributions for that credit.

In Plan II, however, members can only receive two years of service credit for unpaid, authorized leave of absence over their working careers. The member must contribute both the employee and the employer contributions to earn the credit, and the member must have been drafted into the military in order to have military service considered an unpaid, authorized leave of absence.

Summary of Amended Bill: In Plan II of the state's retirement systems, a member who leaves covered employment to enter the U.S. armed forces is entitled to retirement service credit for up to four years of military service. The member qualifies if the member:

- (a) Applies for reemployment with his or her previous employer within 90 days of the member's honorable discharge from the armed forces; and
- (b) Makes the employee contributions required, plus interest as determined by the Department of Retirement Systems, within five years of resumption of employment.

Once the department has received the member contributions, it will bill the employer for the employer contributions, plus interest, for the member's service. Contributions are based on the average of the member's salary at the time the member left employment to enter the armed forces and the time the member resumed employment.

Provisions of the bill apply retroactively for military service begun on or after January 1, 1990.

Amended Bill Compared to Engrossed Substitute Bill: A reference to authorized leave of absence is deleted because, under the amendatory provisions of the bill, military service does not require the member to have secured the employer's authorization. Consistent with federal law, members may qualify for military service credit if they apply for reemployment within 90 days of honorable discharge from the military, rather than if they are actually reemployed in that time frame.

Fiscal Note: Available.

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

Testimony For: This is an appropriate gesture of support and recognition for our military personnel, particularly those who served in Desert Storm. It also brings the state into compliance with federal law regarding veteran's reemployment and benefits.

Testimony Against: None.

Witnesses: Senator Pam Roach, prime sponsor; Gerald Allard, State Actuary; Mike Patrick, Washington State Council of Police Officers; and Sam Kinville, Washington Association of County and City Employees.