

SENATE BILL REPORT

HB 2390

As of February 19, 2016

Title: An act relating to the enforcement of employment rights arising from state active duty service by a member of the national guard.

Brief Description: Concerning the enforcement of employment rights arising from state active duty service by a member of the national guard.

Sponsors: Representatives Klippert, Orwall, Zeiger, Kilduff, MacEwen, Johnson, Haler, Chandler, Short, Kretz, Reykdal, Magendanz, Stanford, Muri, McBride, Moscoso and Wilson; by request of Military Department.

Brief History: Passed House: 2/17/16, 98-0.

Committee Activity: Government Operations & Security: 2/22/16.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Staff: Samuel Brown (786-7470)

Background: The Washington National Guard. The Governor appoints the Adjutant General to command the state militia, which includes the National Guard and the State Guard. The Governor may order the state militia into active service in the event of war, public disaster, or when otherwise required for the health, safety, or welfare of the public.

Guard Member Employment Protections. The federal Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 provides certain employment protection for military reserve and National Guard members who are called from civil employment into federal active duty. The Employer Support for Guard and Reserve Ombuds' (ESGR Ombuds) office, located with the Department of Defense, provides services to members and civilian employers about the rights and protections under USERRA.

In 2001, the Legislature provided similar protections for reserve and National Guard members called into state active duty. State law prohibits an employer from discriminating against an employee because of active duty military service, including state active duty. The law also grants a right to reemployment for persons who left an employment position due to active duty service. The Attorney General must bring a legal action against any employer alleged to violate this provision if the service member protected was in state active duty, the service was not covered by USERRA, and the ESGR Ombuds is unable to resolve the matter.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: The Adjutant General has the primary responsibility for resolving disputes with employers alleged to have violated USERRA. The Attorney General's obligation to enforce employment rights arises only after the Adjutant General has been unable to resolve the matter with the employer. The role of the ESGR Ombuds is eliminated.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.