

# HOUSE BILL REPORT

## SHB 1938

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### As Amended by the Senate

**Title:** An act relating to employment and retirement rights of members of the armed forces called to active duty.

**Brief Description:** Addressing the employment and retirement rights of members of the armed forces called to active duty.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Hinkle, Darneille, Morrell, Ericks and O'Brien).

#### Brief History:

##### Committee Activity:

Appropriations: 2/22/05, 3/3/05 [DPS].

##### Floor Activity:

Passed House: 3/10/05, 94-0.

Senate Amended.

Passed Senate: 4/4/05, 47-0.

#### Brief Summary of Substitute Bill

- Permits members of the Public Employees' Retirement System Plan 1 (PERS 1) to receive interruptive or non-interruptive military service credit while serving honorably in eligible military service, for service earned after January 1, 2005.
- Adds Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom to the armed conflicts that qualify a member for military service credit in PERS 1.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Armstrong, Bailey, Buri, Clements, Cody, Conway, Darneille, Dunshee, Grant, Haigh, Hinkle, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Miloscia, Pearson, Priest, Schual-Berke, Talcott and Walsh.

**Staff:** David Pringle (786-7310).

#### Background:

While all of Washington's state-sponsored retirement systems provide credit for interruptive military service, only two plans provide military service credit for non-interruptive military service. Non-interruptive military service credit, often referred to as prior military service credit, applies to military service before joining PERS 1 or the Washington State Patrol Retirement System Plan 1, for up to 5 years of credit after 25 years of plan membership, and after the member pays the full actuarial value of the service credit. The Teachers' Retirement Service 1 members are not authorized to receive credit for prior military service.

Federal law provides employment and re-employment rights to members of the military, including the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), and Washington law is currently in conformance with these federal requirements. The USERRA addresses the rights of employees to benefits, including pension benefits, upon reemployment with their employers after serving in the military.

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**Summary of Substitute Bill:**

The definition of "veteran" used for both interruptive and non-interruptive military service credit in PERS 1 is amended to include Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom.

For service in the armed forces earned after January 1, 2005, a member of PERS 1 qualifies for non-interruptive military service credit while a member is actively serving honorably, in addition to after being honorably discharged, or being discharged for physical reasons with an honorable record.

A member of PERS 1 qualifies for military service credit after completing 25 years of creditable service without returning to covered employment. A member who would have become eligible for a retirement benefit if they had continued working for a PERS 1 employer for a period that he or she is serving as a veteran may apply to the Department of Retirement Systems for military service credit.

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**EFFECT OF SENATE AMENDMENT(S):**

The Senate Amendment removed the restriction that only military service earned after January 1, 2005 can be added to a PERS 1 member's service credit without the member either being honorably discharged from the military or returning to state retirement PERS-covered employment.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This is an unusual situation because of the current levels of utilization of our reserve forces. I planned to retire at 30 years of service, but six months before I was called, and sent the state my retirement application, but found that I could not get my retirement as I was still in active military service. I contested the result, but was forced to go to a hearing with the Department of Retirement System and the Attorney General. We want to add language that relates to the current conflict, and allow service credit without discharge or return to employment.

**Testimony Against:** None.

**Persons Testifying:** Representative Hinkle, prime sponsor; and Colonel Mike Pierce, U.S. Army.

**Persons Signed In To Testify But Not Testifying:** None.