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HOUSE BILL 1938

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Hinkle, Darneille, Morrell, Ericks and O'Brien

Read first time 02/10/2005. Referred to Committee on Appropriations.

1            AN ACT Relating to employment and retirement rights of members of  
2 the armed forces called to active duty; amending RCW 41.40.170;  
3 reenacting and amending RCW 41.04.005; creating new sections; and  
4 declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** Current extended conflicts in Iraq and  
7 Afghanistan arising from the war on terrorism have affected the rights  
8 and benefits of members of the military. Federal law changes designed  
9 to protect members have not been implemented at the state level due to  
10 language in state law that is outdated. Current state statute does not  
11 adequately recognize the current military conflicts or the demands of  
12 ongoing active service. Members of the military have not been able to  
13 return to employment from active duty. The legislature intends to  
14 authorize the department of retirement systems to comply with federal  
15 laws including, but not limited to, the uniformed services employment  
16 and reemployment rights act, the employee retirement income security  
17 act, and the regulations of the internal revenue service, in  
18 implementing benefits on behalf of retirement system members. The

1 legislature declares that immediate legislative action is necessary to  
2 ensure military members promptly receive their benefits consistent with  
3 federal law.

4 **Sec. 2.** RCW 41.04.005 and 2002 c 292 s 1 and 2002 c 27 s 1 are  
5 each reenacted and amended to read as follows:

6 (1) As used in RCW 41.04.005, 41.16.220, 41.20.050, 41.40.170, and  
7 28B.15.380 "veteran" includes every person, who at the time he or she  
8 seeks the benefits of RCW 41.04.005, 41.16.220, 41.20.050, 41.40.170,  
9 or 28B.15.380 has received an honorable discharge, is actively serving  
10 honorably, or received a discharge for physical reasons with an  
11 honorable record and who meets at least one of the following criteria:

12 (a) The person has served between World War I and World War II or  
13 during any period of war, as defined in subsection (2) of this section,  
14 as either:

15 (i) A member in any branch of the armed forces of the United  
16 States;

17 (ii) A member of the women's air forces service pilots;

18 (iii) A U.S. documented merchant mariner with service aboard an  
19 oceangoing vessel operated by the war shipping administration, the  
20 office of defense transportation, or their agents, from December 7,  
21 1941, through December 31, 1946; or

22 (iv) A civil service crewmember with service aboard a U.S. army  
23 transport service or U.S. naval transportation service vessel in  
24 oceangoing service from December 7, 1941, through December 31, 1946; or

25 (b) The person has received the armed forces expeditionary medal,  
26 or marine corps and navy expeditionary medal, for opposed action on  
27 foreign soil, for service:

28 (i) In any branch of the armed forces of the United States; or

29 (ii) As a member of the women's air forces service pilots.

30 (2) A "period of war" includes:

31 (a) World War I;

32 (b) World War II;

33 (c) The Korean conflict;

34 (d) The Vietnam era(~~{, which}~~), which means:

35 (i) The period beginning on February 28, 1961, and ending on May 7,  
36 1975, in the case of a veteran who served in the Republic of Vietnam  
37 during that period;

1 (ii) The period beginning August 5, 1964, and ending on May 7,  
2 1975;

3 (e) The Persian Gulf War, which was the period beginning August 2,  
4 1990, and ending on the date prescribed by presidential proclamation or  
5 law;

6 (f) The period beginning on the date of any future declaration of  
7 war by the congress and ending on the date prescribed by presidential  
8 proclamation or concurrent resolution of the congress; and

9 (g) The following armed conflicts, if the participant was awarded  
10 the respective campaign badge or medal: The crisis in Lebanon; the  
11 invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation  
12 Restore Hope; Haiti, Operation Uphold Democracy; ~~((and))~~ Bosnia,  
13 Operation Joint Endeavor; and operations within and outside of the  
14 United States in support of the global war on terrorism including, but  
15 not limited to, Operation Noble Eagle, Operation Enduring Freedom, and  
16 Operation Iraqi Freedom.

17 **Sec. 3.** RCW 41.40.170 and 2002 c 27 s 2 are each amended to read  
18 as follows:

19 (1) A member who has served or shall serve on active federal  
20 service in the military or naval forces of the United States and who  
21 left or shall leave an employer to enter such service shall be deemed  
22 to be on military leave of absence if he or she has resumed or shall  
23 resume employment as an employee within one year from termination  
24 thereof.

25 (2) If he or she has applied or shall apply for reinstatement of  
26 employment, within one year from termination of the military service,  
27 and is refused employment for reasons beyond his or her control, he or  
28 she shall, upon resumption of service within ten years have such  
29 service credited to him or her.

30 (3) In any event, after completing twenty-five years of creditable  
31 service, any member may have service in the armed forces credited to  
32 him or her as a member whether or not he or she left the employ of an  
33 employer to enter the armed service: PROVIDED, That in no instance,  
34 described in this section, shall military service in excess of five  
35 years be credited: AND PROVIDED FURTHER, That in each instance the  
36 member must restore all withdrawn accumulated contributions, which  
37 restoration must be completed within five years of membership service

1 following the first resumption of employment or complete twenty-five  
2 years of creditable service: AND PROVIDED FURTHER, That this section  
3 will not apply to any individual, not a veteran within the meaning of  
4 RCW 41.04.005.

5 (4)(a) A member, after completing twenty-five years of creditable  
6 service, who would have otherwise become eligible for a retirement  
7 benefit as defined under this chapter while serving honorably in the  
8 armed forces as referenced in RCW 41.04.005, shall, upon application to  
9 the department, be eligible to receive credit for this service without  
10 returning to covered employment.

11 (b) Service credit granted under (a) of this subsection applies  
12 only to veterans as defined in RCW 41.40.005 serving in the armed  
13 forces on or after September 11, 2001.

14 NEW SECTION. Sec. 4. This act may be known and cited as the  
15 public employment, military service, and retirement act.

16 NEW SECTION. Sec. 5. This act applies retroactively to September  
17 11, 2001.

18 NEW SECTION. Sec. 6. If any provision of this act or its  
19 application to any person or circumstance is held invalid, the  
20 remainder of the act or the application of the provision to other  
21 persons or circumstances is not affected.

22 NEW SECTION. Sec. 7. This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 immediately.

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