
HOUSE BILL 3224

State of Washington 59th Legislature 2006 Regular Session

By Representatives Haigh, Kilmer, Sells, Roberts and Green

Read first time 01/26/2006. Referred to Committee on State Government Operations & Accountability.

1 AN ACT Relating to military service; amending RCW 38.40.110; and
2 reenacting and amending RCW 41.40.170.

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

4 **Sec. 1.** RCW 41.40.170 and 2005 c 247 s 2 and 2005 c 64 s 1 are
5 each reenacted and amended to read as follows:

6 (1) A member who has served or shall serve (~~on active federal~~
7 ~~service in the military or naval forces of the United States~~) in the
8 uniformed services, as defined in RCW 73.16.031, and who left or shall
9 leave an employer to enter such service shall be deemed to be on
10 military leave of absence (~~if he or she has resumed or shall resume~~
11 employment as an employee within one year from termination thereof)
12 and shall receive service credit for such military leave of absence.
13 This service credit shall be terminated if the member receives a
14 dishonorable or bad conduct discharge, or is separated under other than
15 honorable conditions, or is dismissed from the service as permitted
16 under section 1161(a) of Title 10 U.S.C., or is dropped from the rolls
17 pursuant to section 1161(b) of Title 10 U.S.C.

18 (2) If he or she has applied or shall apply for reinstatement of
19 employment, within one year from termination of the military service,

1 and is refused employment for reasons beyond his or her control, he or
2 she shall, upon resumption of service within ten years have such
3 service credited to him or her.

4 (3) In any event, after completing twenty-five years of creditable
5 service, any member may have service in the armed forces credited to
6 him or her as a member whether or not he or she left the employ of an
7 employer to enter the armed service: PROVIDED, That in no instance,
8 described in this section, shall military service in excess of five
9 years be credited: AND PROVIDED FURTHER, That in each instance the
10 member must restore all withdrawn accumulated contributions, which
11 restoration must be completed within five years of membership service
12 following the first resumption of employment or complete twenty-five
13 years of creditable service: AND PROVIDED FURTHER, That this section
14 will not apply to any individual, not a veteran within the meaning of
15 RCW 41.04.005.

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

22 (b) Service credit granted under (a) of this subsection applies
23 only to veterans as defined in RCW 41.40.005.

24 (5) The surviving spouse or eligible child or children of a member
25 who left the employ of an employer to enter the uniformed services of
26 the United States and died while serving in the uniformed services may,
27 on behalf of the deceased member, apply for retirement system service
28 credit under this subsection up to the date of the member's death in
29 the uniformed services. The department shall establish the deceased
30 member's service credit if the surviving spouse or eligible child or
31 children:

32 (a) Provides to the director proof of the member's death while
33 serving in the uniformed services; and

34 (b) Provides to the director proof of the member's honorable
35 service in the uniformed services prior to the date of death.

36 (6) A member who leaves the employ of an employer to enter the
37 uniformed services of the United States and becomes totally
38 incapacitated for continued employment by an employer while serving in

1 the uniformed services is entitled to retirement system service credit
2 under this subsection up to the date of discharge from the uniformed
3 services if:

4 (a) The member obtains a determination from the director that he or
5 she is totally incapacitated for continued employment due to conditions
6 or events that occurred while serving in the uniformed services; and

7 (b) The member provides to the director proof of honorable
8 discharge from the uniformed services.

9 **Sec. 2.** RCW 38.40.110 and 1991 c 43 s 9 are each amended to read
10 as follows:

11 No club, society, association, corporation, employer, or
12 organization shall by any constitution, rule, bylaws, resolution, vote
13 or regulation, or otherwise, discriminate against or refuse to hire,
14 employ, or reemploy any member of the organized militia of Washington
15 because of his or her membership in said organized militia. No club,
16 society, association, corporation, employer, or organization shall
17 inquire about a person's membership in the organized militia of this or
18 any other state, territory, or commonwealth, or membership in the
19 uniformed services, unless such membership or former membership is a
20 condition of employment, or the employer has a formal written policy of
21 providing preference in hiring to veterans or current members of the
22 uniformed services, or unless such membership or former membership is
23 a requirement for membership in the club, society, association, or
24 organization. Any person or persons, club, society, association,
25 employer, corporation, or organization, violating or aiding, abetting,
26 or assisting in the violation of any provision of this section shall be
27 guilty of a misdemeanor and on conviction thereof shall be fined in any
28 sum not exceeding one hundred dollars and in addition thereto shall
29 forfeit the right to do business for a period of thirty days. Any
30 person who has been discriminated against in violation of this section
31 shall have a civil cause of action for damages.

--- END ---