

HOUSE BILL REPORT

HB 2390

As Passed House:

February 17, 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:

Committee Activity:

Community Development, Housing & Tribal Affairs: 1/21/16, 1/26/16 [DP].

Floor Activity:

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

Brief Summary of Bill

- Requires the Attorney General to take enforcement action to protect a state service member's employment rights after the Adjutant General has attempted to resolve the matter with the employer.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 7 members: Representatives Ryu, Chair; Robinson, Vice Chair; Wilson, Ranking Minority Member; Zeiger, Assistant Ranking Minority Member; Appleton, Hickel and Sawyer.

Staff: Sean Flynn (786-7124).

Background:

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.

The Governor serves as commander-in-chief of 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. The Governor appoints the Adjutant General to command the state militia.

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 Ombudsman's (ESGR Ombudsman's) office, located with the Department of Defense, provides services to members and civilian employers about the rights and protections under the USERRA.

In 2001 the Legislature provided similar protections for reserve and National Guard members called into state active duty.

The 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 who violates the provision of this law, if the service member protected was in state active duty and not covered by the USERRA. Also, the Attorney General's obligation only arises if the ESGR Ombudsman has been unable to resolve the matter.

Summary of Bill:

The Attorney General's obligations to enforce a service members employment rights arises only after the Adjutant General has been unable to resolve the matter with the employer. The role of the ESGR Ombudsman is eliminated.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) National Guard members perform a vital service for the citizens of our state, including active state duty in response to natural disasters, such as flooding and wildfires. The federal USERRA protects service members when in federal active duty. Service members called into state active duty are protected under state law.

The federal Ombudsman only has authority to address matters under the federal statute. The prerequisite for the Adjutant General to assist with employment rights stemming from state active duty is better placed on the Adjutant General. This is a technical correction bill with no fiscal cost.

(Opposed) None.

Persons Testifying: Representative Klippert, prime sponsor; Major General Daughtery, Washington National Guard; and Ted Wicorek, Veterans Legislative Coalition.

Persons Signed In To Testify But Not Testifying: None.