

SENATE BILL REPORT

SB 6202

As Passed Senate, February 11, 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: Senators Hobbs, Angel, Roach, Bailey, Conway, Rivers, Rolfes, McCoy, McAuliffe and Benton; by request of Military Department.

Brief History:

Committee Activity: Government Operations & Security: 1/26/16, 1/28/16 [DP].
Passed Senate: 2/11/16, 49-0.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: Do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Dansel, Habib, McCoy and Takko.

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

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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.

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.

Staff Summary of Public Testimony: PRO: When a National Guard member is called up to assist civil authorities with emergency response, they're on state active duty status. The ESGR Ombuds cannot assist service members on state active duty status. This is a technical fix to allow the Adjutant General to work this out. With an increasing amount of fires, this will protect our men and women if something happens to their employment when called to service.

Persons Testifying: PRO: Senator Hobbs, prime sponsor; Brig. Gen. John Tuohy, Washington Air National Guard.

Persons Signed In To Testify But Not Testifying: No one.