PUBLIC EMPLOYEES ENTERING ARMED FORCES

Act 263 of 1951

AN ACT to establish the rights and privileges of officers and employees of the state of Michigan and of civil and political subdivisions thereof who enter into armed forces of the United States; and to provide for enforcement of the rights and privileges created.

History: 1951, Act 263, Eff. Sept. 28, 1951

The People of the State of Michigan enact:

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35.351 Definitions.

Sec. 1.

When used in this act—

(a) The term "public employee" means any person holding a position in public employment, both classified and unclassified.

(b) The term "public employment" means remunerative employment by the government of this state, or of any county, municipality, or other civil or political subdivision thereof, including any department, agency or instrumentality thereof.

(c) The term "public employer" means any government, department or agency mentioned in subsection (b) of this section employing a public employee in a position.

(d) The term "position" means employment, whether probationary or otherwise, held by a public employee at the time of entrance into military duty, but shall not include temporary or casual employment or an office filled by election, nor officers appointed for a fixed term.

(f) The term "military duty" means (1) training and service performed by an inductee, enlistee or reservist or any entrant into a temporary component of the armed forces of the United States, and (2) time spent in reporting for and returning from such training and service, or if a rejection occurs, from the place of reporting therefor: Provided, That the time spent does not exceed the minimum time required by law for the inductee or not exceed 3 years for the first enlistment, or not exceed 3 years for the reservist after being recalled to active duty or as soon after the expiration of such 3 years as the reservist is able to obtain orders relieving him from active duty: And provided further, That if the re-employment provision of the selective service act is amended to provide a period of other than 3 years, such a period provided by the selective service act shall apply.

History: 1951, Act 263, Eff. Sept. 28, 1951

35.352 Public employees entering military duty; reemployment, restoration or placement in other position or department.

Sec. 2.

(a) Any public employee who leaves a position while this act is in effect, or who left such position prior to such effective date but not earlier than June 27, 1950, whether voluntarily or involuntarily, in order to perform military duty, or who was performing military duty on June 27, 1950, and who is relieved or discharged from such duty under honorable conditions, and

makes application for reemployment within 90 days after he is relieved from military duty or from hospitalization continuing after discharge for a period of not more than 1 year shall—

(1) If still qualified to perform the duties of such position, be restored to such position if it exists and is not held by a person with greater seniority, otherwise to a position of like seniority, status and pay;

(2) If not qualified to perform the duties of such position by reason of disability sustained during such service, such public employee shall be placed in such other position, the duties of which he is qualified to perform, as will provide him like seniority, status and pay, or the nearest approximation thereof consistent with the circumstances of his case.

(b) In the case of any person who is entitled to be restored to a position in accordance with the provisions of this act, if it is determined that the department or agency with which such person was employed immediately prior to his entry upon training and service aforesaid—

(1) Is no longer in existence and its functions have not been transferred to any other agency, or

(2) For any reason it is not feasible for such person to be restored to such department or agency, it shall be determined whether or not there is a position in any other department or agency of the same public employer for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto or less seniority than the employee returning from military service. In any case in which it is determined that there is such a position, such person shall be restored in service and appointed to such position by the department or agency in which such position exists.

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35.353 Reemployment of public employees; subsequent discharge; seniority; insurance and other benefits.

Sec. 3.

Any person who is restored to a position in accordance with the provisions of this act shall not be discharged from such position without cause within 1 year after such restoration, unless all employees in the same classification with less seniority are first laid off and shall, without limiting other rights conferred by this or other sections, be considered as having been on furlough or leave of absence during his period of military duty. He shall be restored without loss of seniority, including, upon promotion or other advancement following completion of any period of employment required therefor, a seniority date in the advanced position which will place him ahead of all persons previously junior to him who advanced to the position during his absence in the armed forces. He shall also be entitled on reinstatement to participate in insurance (including pension plans and medical insurance) and other benefits dependent on length of employment to the same extent as if he had remained continuously at work; he shall have the option to continue during his term of military service payments which participation in the benefit would have required of him had he remained at work, and shall have the option upon reinstatement to make up any such contributions which were not made during the period of his military duty; the employer shall make on the employee's behalf any payments the employer would have made had the employee remained at work. He shall be protected against reduction in his seniority, status or pay during his employment except as such reduction may be made for all employees whose employment situations are similar. Nothing in this section shall be construed as requiring the granting of more than a total of 6 years' credit towards retirement.

History: 1951, Act 263, Eff. Sept. 28, 1951

35.354 Public employee; leave of absence for induction in military service.

Sec. 4.

Any public employee who holds a position in public employment shall be granted a leave of absence for the purpose of being inducted or otherwise entering military duty. If not accepted for such duty, the employee shall be reinstated in his position without loss of seniority or status, or reduction in his rate of pay.

History: 1951, Act 263, Eff. Sept. 28, 1951

35.355 Enforcement of act; regulations; responsibility of official agency; noncompliance by public employer, hearing; officials responsible for reinstatement.

Sec. 5.

(a) The official agency or individual responsible for the enforcement of this act is authorized to issue regulations for the enforcement of the act. The departments and agencies in the government in this state and the governments of the civil and political subdivisions thereof shall comply with such regulations and orders issued by such official agency or individual pursuant thereto. The official agency or individual shall, whenever it finds upon appeal of the person concerned, that any department or agency aforesaid has failed or refuses to comply with the provisions of this act or of regulations thereunder to issue an order specifically requiring such department or agency to comply with such provisions and to compensate such person for any loss of salary or wages suffered by reason of failure to comply with such provisions, less any amount received through other employment: Provided, That any such compensation ordered to be paid shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions, and shall be paid by the head of the department or agency concerned out of appropriations currently available for salaries and expenses of such department or agency, and such appropriations shall be available for such purpose.

(b) In case any public employer fails or refuses to comply with the provisions of this act, the circuit court for the district in which such public employer is located shall have power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employers' unlawful action: Provided, That any such compensation shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions. The court shall order speedy hearing in any such case and shall advance it on the calendar. Upon application to the attorney general by any person claiming to be entitled to the benefits of such provisions, the attorney general, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the advisable adjustment of the claim or in the filing of any motion, petition or other appropriate pleading, and the prosecution thereof specifically to require such employer to comply with such provisions. No fees or court costs shall be taxed against any person who may apply for such benefits: Provided, That only the employer shall be deemed a necessary party respondent to any such actions.

(c) In the state government or any of its political subdivisions or instrumentalities, the following official agencies or individuals shall have the responsibility for reinstating public employees covered by this act in accordance with the provisions of this act: The civil service

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board or commission, the chief executive, or administrative officer where there is no civil service board or commission. Where there is neither a civil service board or commission, a chief executive, nor administrative officer, then the local governing body shall have such responsibilities.

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35.356 Laws inapplicable.

Sec. 6.

Any laws or parts of laws, which are inconsistent with the provisions of this act, or which would serve to defeat the purposes thereof, shall to such extent be deemed inapplicable to public employers and public employees in the exercise of the rights and privileges conferred by this act.

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