

July 12, 2006

PERSL #1399

(Supplements PERSL# 1395, 1383, 1375)

TO: HR Directors/Designees

FROM: Paul A. Larson, Deputy Commissioner
Labor Relations/Total Compensation Division



RE: **Legislative Changes Affecting Military Salary Differential and Two New Leave Types**

House File 3664 was signed into law on June 1, 2006 and expands eligibility for the Military Salary Differential. In addition, this law creates two new leaves: 1) leave for immediate family members of military personnel injured or killed in active service, and 2) leave to attend military ceremonies. This memo will clarify these changes.

Military Pay Differential – for active service on or after May 29, 2003 and not previously paid

As explained in PERSL 1395, Minnesota Statute 43A.183 authorizes the payment of salary differential for reserve forces who report for active duty. House File 3664 now expands the salary differential set forth in 43A.183 beyond reservists called for active military duty to also include “any member of nonmilitary reserve component of the uniformed services of the U.S. who took properly authorized leave from state employment under substantially comparable federal or state authority ordering the person to report for federal or state active service.” Although the statute does not define this phrase, the legislative intent appears to adopt the definition of “uniformed services” in the Uniformed Services Employment and Reemployment Rights Act (USERRA). Examples of the nonmilitary reserve component of the uniformed services include service for the commissioned corps of the Public Health Service and any other category of persons designated by the President in time of war or emergency. Eligible employees may apply for the salary differential benefits prior to, during, or following the person’s active service on or after May 29, 2003. Payment of the salary differential is not authorized for basic training, advanced individual training, annual training and periodic inactive duty training.

Leave For Immediate Family Members of Military Personnel Injured or Killed in Active Service—Effective June 2, 2006

Agencies must grant up to 10 working days of unpaid leave to an employee whose immediate family member, as a member of the United States armed forces, has been injured or killed while engaged in active service. The number of days granted may depend on the specific situation and operational business needs. **Immediate family member is defined in this law as a person’s parent, child, grandparents, siblings, or spouse.** At the Appointing Authority’s discretion, the employee may substitute paid accrued vacation or compensatory time off for any or all of the leave period. An employee must give as much notice as practicable of the employee’s intent to take this leave. This provision is effective June 2, 2006 and applies to family members injured or killed after this date as well as those family members injured prior to this date.

Equal Opportunity Employer

Leave to Attend Military Ceremonies—Effective August 1, 2006

Unless the leave would unduly disrupt the operations of the agency, an agency shall grant a leave of absence without pay to an employee whose immediate family member, as a member of the United States armed forces, has been ordered into active service in support of a war or other national emergency. Agencies may limit the amount of leave provided to the actual time necessary for the employee to attend a send-off or homecoming ceremony, not to exceed one day's duration in any calendar year. At the Appointing Authority's discretion, the employee may substitute paid accrued vacation or compensatory time off for any or all of the leave period.

Immediate family member is defined in this law as a person's grandparent, parent, legal guardian, sibling, child, grandchild, spouse, fiancé, or fiancée.

If you have any questions, please feel free to contact your DOER Labor Relations Representative.

References:

PERSLs: 1385, 1383, 1375

Minn. Stat. sec. 43A.183