



2003 ASSEMBLY BILL 418

June 24, 2003 - Introduced by Representatives MUSSER, TOWNSEND, BOYLE, LOEFFELHOLZ, MILLER, NASS, TRAVIS, SUDER, CULLEN, VAN AKKEREN, OTT, KREIBICH, LEMAHIEU, KRAWCZYK, TURNER, FREESE, HAHN, HINES, OWENS, J. FITZGERALD and GUNDERSON, cosponsored by Senators ZIEN, WIRCH, BRESKE, ROESSLER, CHVALA, HANSEN, ERPENBACH and RISSER, by request of Governor James E. Doyle. Referred to Committee on Veterans and Military Affairs.

1 **AN ACT** *to amend* 230.32 (1) (intro.); and *to create* 230.315 of the statutes;
2 **relating to:** differential pay and accumulation of sick leave and annual leave
3 for certain state employees activated into service in the U.S. armed forces or the
4 U.S. public health service.

Analysis by the Legislative Reference Bureau

This bill provides that certain state employees who are activated to serve on military duty in the U.S. armed forces shall be paid their state salaries, less any military pay and allowances that they receive, during the period in which the employees are on military duty in the U.S. armed forces, unless the military pay and allowances equal or exceed an employee's state salary, and shall continue to accumulate sick leave and vacation as though no interruption in service has occurred. Under the bill, in order to qualify for the payment, an employee must: 1) on or after January 1, 2003, be activated to serve on military duty in the U.S. armed forces, other than for training purposes; 2) on the date on which he or she is activated, be either a member of the Wisconsin national guard or a member of a reserve component of the U.S. armed forces or be recalled to active military duty from inactive reserve status; and 3) be on an authorized military leave of absence.

In addition, the bill provides that state employees who are required to serve in the U.S. public health service and who are on detail with any of the U.S. armed forces shall be paid their state salaries, less any federal pay and allowances that the employees receive during the period in which the employees are detailed for duty

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with any of the U.S. armed forces, unless the federal pay and allowances equal or exceed an employee's state salary.

Under the bill, an employee receives pay and benefits for not more than 179 days, except that the governor may extend that period to not more than one year. The bill applies retroactively to leaves that begin on or after January 1, 2003.

Currently, classified state employees who are inducted into active service in the U.S. armed forces or who are requested to work for the federal government during a national emergency or limited national emergency have restoration rights and certain other benefits but do not receive their state salaries and do not accumulate sick leave and vacation while on leave for federal service.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 230.315 of the statutes is created to read:

2 **230.315 Differential pay, sick leave and annual leave for certain state**
3 **employees activated into certain federal service.** (1) Subject to sub. (3), a state
4 employee who is activated to serve on military duty in the U.S. armed forces shall
5 be paid his or her state salary, less any military pay and allowances that he or she
6 receives, during the period in which the employee is on military duty in the U.S.
7 armed forces, unless the military pay and allowances equal or exceed his or her state
8 salary, and shall accumulate sick leave and paid annual leave of absence as though
9 no interruption in service has occurred if all of the following apply:

10 (a) On or after January 1, 2003, the employee is activated to serve on military
11 duty in the U.S. armed forces, other than for training purposes.

12 (b) On the date on which he or she is activated, the employee is either a member
13 of the Wisconsin national guard or a member of a reserve component of the U.S.
14 armed forces or is recalled to active military duty from inactive reserve status.

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1 (c) The employee has received a military leave of absence under s. 230.32 (3)
2 (a) or 230.35 (3), under a collective bargaining agreement under subch. V of ch. 111,
3 or under rules promulgated by the secretary of employment relations or is eligible
4 for reemployment with the state under s. 45.50 after completion of his or her service
5 in the U.S. armed forces.

6 (2) Subject to sub. (3), a state employee who is required on or after January 1,
7 2003, to serve in the U.S. public health service and who is on detail with any of the
8 U.S. armed forces shall be paid his or her state salary, less any federal pay and
9 allowances that he or she receives, during the period in which the employee is
10 detailed for duty with any of the U.S. armed forces, unless the federal pay and
11 allowances equal or exceed his or her state salary, and shall accumulate sick leave
12 and paid annual leave of absence as though no interruption in service has occurred.

13 (3) (a) Except as provided in par. (b), beginning on the 30th day after a state
14 employee is activated to serve on military duty in the U.S. armed forces or to serve
15 in the U.S. public health service, the employee shall receive the pay and benefits
16 authorized under sub. (1) or (2) for a period of not more than 179 days.

17 (b) The governor, by executive order, may extend the period that an employee
18 receives the pay and benefits under par. (a) up to a period of one year from the date
19 on which the person is activated to serve on military duty in the U.S. armed forces
20 or to serve in the U.S. public health service.

21 (4) An appointing authority shall permit a state employee who is eligible to
22 receive the pay and benefits authorized under sub. (1) or (2) and who has completed
23 his or her duty with the U.S. armed forces or the U.S. public health service to use up
24 to 80 hours of accumulated paid leave before the employee resumes employment with
25 the state.

ASSEMBLY BILL 418**SECTION 2**

1 **SECTION 2.** 230.32 (1) (intro.) of the statutes is amended to read:

2 230.32 (1) (intro.) Any classified employee of this state, except a limited term
3 employee, who enlists, is ordered or is inducted into active service in the armed forces
4 of the United States or who is requested to work for the federal government during
5 a national emergency or a limited national emergency, shall be restored to the same
6 or similar position in the classified service and his or her employment shall be
7 deemed not to have been interrupted by such leave except for the receipt of pay or
8 other compensation, and accumulation of sick leave and ~~accumulation of~~ vacation for
9 the period of such absence, unless the employee qualifies to receive pay and benefits
10 under s. 230.315, and the employee shall be given all the other benefits of seniority,
11 status, pay, pay advancement, performance awards and pension rights under ch. 40
12 as though the state employment was continuous, if:

13 **SECTION 3. Nonstatutory provisions.**

14 (1) COVERAGE.

15 (a) Except as provided in paragraph (b) and notwithstanding sections 111.84
16 (1) and (2), 111.91 (1) and (2), and 111.93 (3) of the statutes, section 230.315 of the
17 statutes, as created by this act, applies to state employees and the state before July
18 1, 2005, regardless of whether the employees are nonrepresented or represented by
19 a labor organization, as defined in section 111.81 (12) of the statutes.

20 (b) Beginning on July 1, 2003, for any state employee represented by a labor
21 organization, as defined in section 111.81 (12) of the statutes, section 230.315 of the
22 statutes, as created by this act, applies until the day before the effective date of any
23 act ratifying the collective bargaining agreement for the 2003–05 fiscal biennium
24 that covers that employee. Beginning on the effective date of any such act, section

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1 230.315 of the statutes, as created by this act, applies only if provided by the terms
2 of the collective bargaining agreement.

3 (2) RETROACTIVE RECEIPT OF PAY AND BENEFITS. If a state employee who is eligible
4 to receive the pay and benefits authorized under section 230.315 of the statutes, as
5 created by this act, was activated to serve on military duty in the U.S. armed forces
6 or in the U.S. public health service during the period that begins on January 1, 2003,
7 and ends on the day before the effective date of this subsection, the employee shall
8 receive the pay and benefits authorized under section 230.315 (1) or (2) of the
9 statutes, as created by this act, for any service on military duty in the U.S. armed
10 forces or in the U.S. public health service during that period.

11 (END)