ALASKA VETERANS POLITICAL ACTION COMMITTEE

Alaska Veterans 2010 Priorities (2/12/10 update)

Outlined below are the state legislative priorities as we see them for the 2010 session. If you have other issues or think there should be different priorities, or in anyway disagree with what is outlined below, please notify: ricdavidge.ak@gci.net

1. Outreach Fully implement HB44 which created the first volunteer veterans register on the PFD application.

This requires the Dept of Mil & Vet Affairs to craft a contract/agreement between the state and "Congressionally Chartered Veteran Service Organizations" as required by the act. The components of these agreements are critical. We DO NOT want service organizations using this list to "recruit". That was a part of the agreement we made with legislators that got this bill passed. Only Congressional Chartered Veteran Service Organizations can participate. That's VVA, VFW, Am Leg, Am Vets, MOPH.

We suggest that the AK Dept of Mil & Vet Affairs enter into an agreement with all Veteran Service Organizations to cooperate in the effort to reach our veterans with information about their rights, benefits, services, etc.

We also suggest that the AK Dept of Mil & Vet Affairs enter into a MOA/MOU with the US Dept of Veterans Affairs, Alaska to cooperatively do at least one general mailing a year to every veteran on this list. This mailing should advise each veteran of the rights, benefits, and services they MAY qualify for and how to access them through the services of a nationally accredited Veteran Service Officer. Status: House/Senate Joint Cmte on Mil & Vet Affairs needs to hold a hearing and request status, what are the problems, etc. This "law" should be fully implemented – it is the law. Wasup?

2. Immediate inclusion of all nationally accredited Veteran Service Officers (VSO) in state funding for veterans services under the Dept of Mil & Vet Affairs.

It is time the state recognized the work that all accredited veterans organization Service Officers are doing for our military, our veterans, and for their families.

For years a small number of Veteran Service Organizations have received exclusive financial support from the state in the state's Dept of Mil and Vet Affairs. **This is wrong.** All nationally accredited Veteran Service Officers should be included in this program under the Director of Veteran Services within the AK Dept of Mil & Vet Affairs. Additionally, the programs of these VSO's and their supportive organizations **must** be reviewed regularly to ensure the state's funds are being responsibly used to benefit Alaska's veterans and the state's interests. The new DMVA Director of Veterans Affairs is trying to provide appropriate oversight and accountability for the use of these state funds. He needs strong legislative and administrative support for his efforts. We strongly support his efforts.

We recommend a serious overhaul of this program, long supported by the state. It is our intention to bring this before our state legislators this 2010 session and every session until this program is made more inclusive and far more productive and responsive to the interests of our veterans and the state. We will also push for more funding in the program as we can clearly demonstrate such an investment is in the economic best interest of the state as well as thousands of Alaskan veterans and their families. Status: we have requested a formal update from the Commission of Military and Veterans Affairs. We have notified the House/Senate Finance Cmtes that VVA VSO's need to be included in the program. VVA requested this action over three years ago following the election of Gov Palin.

3. Immediate passage of HJR 16 now in House Rules **Cmte calls for Congressional oversight hearings** into why federal agencies **in Alaska** refuse or fail to meet their mandated 3% set a side for Service Disabled Veteran Owned Small Businesses (SDVOSB) in Alaska. This resolution is in direct support of the efforts of our Congressional Delegation to get federal agencies in Alaska to meet these and other federal contracting/procurement/and hiring requirements. Passage of this resolution will bolster efforts by a number of states to get Congress to give this long standing infraction of federal law and policy to the detriment of disabled veterans who start business that qualify for federal procurement preferences. Update: Sponsor/Gatto sent request to House Rules to schedule for House floor action

4. **Immediate passage of HB225** (alternative to HB24) which passed the state House w/out a dissenting vote last session. This bill **authorizes a 5% preference on all state procurements/contracts for Alaskan Veteran Owned Businesses**. Senate action should remove the arbitrary cap on the size of projects/procurements for which this preference can apply. Status: In House Finance since 4/14/09 We have requested Sponsor ask for Cmte Hearing

5. **Immediate passage of SB151** which makes **it a class A misdemeanor for any "charity" to solicit donations if they are not in full compliance with state and federal laws and regulations**. It also requires that all donations be used for the purpose they are solicited for. This is in direct response to the national and Alaskan problem of bogus charities, especially veteran "charities" that are not in compliance with the law or use their donations for "other purposes". The definition of "soliciting" needs to be expanded to not just be limited to phone solicitations but all and any solicitation by any organization or group for veterans or other groups.

We also believe it timely to begin a serious discussion on what is an appropriate split between those who actually do the solicitation and the organizations that receive the benefits of these efforts. We suggest a split of 60% for the organization and 40% for compensation of solicitors.

Finally, we believe it essential that our State Attorney General open formal investigations and/or audits into charities who are not in full state/federal compliance and about whom the Attorney General receives formal complaints. This is beginning to happen in more and more states as policy makers become aware of the amount of "fraud" and misrepresentation that is taking place by some so called charities. Status: In Sen Finance since 3/18/09 Time to move it to Sen Rules with amendments as outlined above.

6. **We need more "partnerships" in rural and remote Alaska to provide healthcare services to our veterans** and their families across Alaska. (A report on Rural and Remote Healthcare Needs of our Veterans, developed for the National Conference of State Council Presidents is available upon request). Status: The AK VA is making real progress here, but we would like to see more.

7. **Ending Homelessness for AK Veterans** The Alaska Veterans Foundation, Inc. and a growing number of national veteran's organizations lead by the Vietnam Veterans of America are joining together with community service organizations and private corporations to end homelessness for Alaska's veterans in the next 5 years. This must be an active and visible partnership between the state, local governments, and these mentioned groups.

Status:

- The Alaska Veterans Foundation, Inc. has put forward a request for funds to do the pre-development work essential to start Alaska's first Housing First concept **for veterans** using a harm reduction model with priority for the chronic homeless veterans in Anchorage. We will update you on this proposal to Congress requested by Members of our delegation. If you want a copy of the proposal please email: rdavidge@cyalaska.com

- Legislatively, one critical key in moving in the right direction is by actually funding the **Alaska Housing Trust** as agreed years ago. Contact **Chairman Mike Hawker of the House Appropriations Committee** Rep_Mike_Hawker@legis.state.ak.us

The demographics of homelessness for our veterans are changing, but the groups who serve the homeless are not moving quickly enough to meet these new challenges.

1. The number of women new veterans' w/children who are homeless is increasing dramatically.
2. The number of veterans with families is increasing and now is about 1/3 of the total in AK.
3. We need new housing products that include Housing First models. They work and save communities tens of thousands of dollars in local taxes annually.
4. The State of Alaska has been actively studying this horrific cultural issue, but yet the number of new "doors" has not dramatically increased. We need a new approach.
5. We have serious cultural issues/conflicts that MUST be addressed when dealing with this issue.
6. 90+% of all public funds directed towards the homeless are for "services". **This will not solve this problem.** We need "Housing First" models in every major community across our state.

We have the means, method, plan, and proven solutions capable of accomplishing this in 5 years.

8. HB284/SB215 Requires the AK Department of Health and Social Services to accept federal prescription drug benefits or provide comparable benefits for residents of AK Pioneers' Home, including residents eligible for discount or free benefits from the US Dept of VA or the Indian Health Svc . . . Introduced by Rep Dahlstrom, Gara, Herron, Wilson in the House and Senators Wielechowski, in the Senate these bills are an attempt for formally codify the agreement worked out last year by Members of the Legislature, Veterans Organizations, the VA, the Commissioner HSS/and the Pioneers Homes/AK Vet Home on handling medications for veterans in resident. Although the current agreement appears to be working well, it is our belief, and one shared by these sponsors, that this agreement needs to be formally codified into law. Update: SB215 http://www.legis.state.ak.us/basis/get_bill.asp?bill=SB%20215&session=26 Out of Sen HSS w/Do Pass 0 fiscal note, now referred to Sen Finance.

9. SB278/NEW BILL – Allowing teachers, public employees, and private sector employees to take leave without pay when their spouses are on leave from deployment in a combat zone. Introduced by Senator Wielechowski, this bill is in direct response to problems military spouses have had trying to take time off from work to visit their spouse while on leave/R&R from combat locations. The bill has also been expanded to include leave without pay when a spouse wishes to spend time with a wounded warrior, again in response to problems some have had.

We were asked to review this bill during its formation and strongly support Sen. Wielechowski's efforts. Although one would think the Federal Family Leave Act would cover spouses visiting their wounded warriors, there appears to be a need for state law making this clear. The bill limits the time to 10 working days. Status: Just introduced this week

Other Issues:

- Need coordinated effort by State DMVA and Veteran Service Organizations to get Native Corps to hire and support their own NVSOs. VVA has offered to help train and support these VSOs and coordinate with our regional and village corporations to accomplish this.
- We need younger VSOs. AVVA is now approved by the VA, so we will begin finding, training and supporting younger VSOs to work with our new veterans.
- Fix the PFD process to be more workable with overseas deployments for Active Duty, Reserves, and National Guard. Amend the 72 hr every two years, fix the 180 day requirement, and fix the 5 year presumption.
- Alaska State veteran personnel/hire laws and regulations need to be updated and extended similar to federal preferences.
- Veteran Courts – need more development, focus on intake points that ensure we ask: "are you a veteran?"
- New Vet Transition Teams – needs more local community interface. Suggest a booklet by the State DMVA on state and local services and benefits. Should allow VSO's into system.

We hope this is helpful to our collective efforts to improve the lives of Alaska's veterans and their families.

Prepared by Ric Davidge 907 229 5328 ricdavidge.ak@gci.net rdavidge@cyalaska.com

- State Council President, Vietnam Veterans of America (VVA)
- Chairman, Alaska Veterans Foundation, Inc. (AKVF)
- Chairman, MOA Mil & Vet Affairs Commission
- Chairman, Alaska Veterans Political Action Committee (AK VET PAC)
- Chairman, Ending Chronic Homelessness for our veterans (National Conf of State Council Presidents, VVA)
- Chairman, Political Action Committee (National Conf of State Council Presidents, VVA)
- National Chairman, Economic Opportunities Committee, VVA

U.S. Department of Labor
Wage and Hour Division

Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements

The National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181, amended the FMLA to allow eligible employees to take up to 12 weeks of job-protected leave in the applicable 12-month period for any "qualifying exigency" arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent. The NDAA also amended the FMLA to allow eligible employees to take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered servicemember with a serious injury or illness. These two new types of FMLA leave are known as the military family leave entitlements.

EMPLOYER COVERAGE

FMLA applies to all public agencies, including state, local and federal employers, local education agencies (schools), **and** private-sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including joint employers and successors of covered employers.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, an employee **must**:

- work for a covered employer;
- have worked for the employer for a total of 12 months;
- have worked at least 1,250 hours over the previous 12 months; and
- work at a location where at least 50 employees are employed by the employer within 75 miles.

MILITARY FAMILY LEAVE ENTITLEMENTS

Military Caregiver Leave: A covered employer must grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness up to a total of **26 workweeks** of **unpaid** leave during a "single 12-month period" to care for the servicemember. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A serious injury or illness is one that was incurred by a servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating. The "single 12-month period" for leave to care for a covered servicemember with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later, regardless of the 12 month period established by the employer for other types of FMLA leave. An eligible employee is limited to a **combined** total of 26 workweeks of leave for any FMLA-qualifying reason during the "single 12-month period." (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered servicemember.)

Qualifying Exigency Leave: A covered employer must grant an eligible employee up to a total of **12 workweeks** of **unpaid** leave during the normal 12-month period established by the employer for FMLA leave

for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. Under the terms of the statute, qualifying exigency leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces.

Qualifying exigencies include:

- Issues arising from a covered military member's short notice deployment (i.e., deployment on seven or less days of notice) for a period of **seven** days from the date of notification;
- Military events and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to **five** days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
- Any other event that the employee and employer agree is a qualifying exigency.

Spouses employed by the same employer are limited to a **combined** total of 26 workweeks in a "single 12-month period" if the leave is to care for a covered servicemember with a serious injury or illness, and for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to care for a parent who has a serious health condition.

FMLA leave may be taken intermittently whenever **medically necessary** to care for a covered servicemember with a serious injury or illness. FMLA leave also may be taken intermittently for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

Under certain conditions, employees **or** employers may choose to "substitute" (run concurrently) accrued **paid** leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

NOTICE REQUIREMENTS

Employee Notice

Employees seeking to use military caregiver leave must provide 30 days advance notice of the need to take FMLA leave for planned medical treatment for a serious injury or illness of a covered servicemember. If leave is foreseeable but 30 days advance notice is not practicable, the employee must provide notice as soon as practicable – generally, either the same or next business day. An employee must provide notice of the need for foreseeable leave due to a qualifying exigency as soon as practicable. When the need for military family leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Generally, it should be practicable to provide notice for unforeseeable leave within the time prescribed by the employer's usual and customary notice requirements.

An employee does not need to specifically assert his or her rights under FMLA, or even mention FMLA, when providing notice. The employee must provide "sufficient information" to make the employer aware of the need for FMLA leave and the anticipated timing and duration of the leave. Depending on the situation, such information may include, as applicable:

- that the requested leave is for a particular qualifying exigency related to the active duty or call to active duty status of a covered military member and the anticipated duration of the leave;
- that the leave is for a qualifying family member who is a covered servicemember with a serious injury or illness and the anticipated duration of the leave.

When an employee seeks leave due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee **must** specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employer Notice

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under FMLA. Additionally, employers must either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring.

When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA purpose, the employer must notify the employee of his or her eligibility to take leave, including a reason for non-eligibility if the employee is determined not to be eligible. Such eligibility notice may be oral or written and should, generally, be given within five business days of the request for FMLA leave. Subsequent eligibility notice in the same 12-month leave period may be required when an employee's eligibility status changes. Employers also must inform employees of their rights and responsibilities under FMLA, including giving specific written information on what is required of the employee.

When the employer has enough information to determine that leave is being taken for an FMLA-qualifying reason, the employer must notify the employee that the leave is designated and will be counted as FMLA leave. The employer must designate leave that qualifies as **both** leave to care for a covered servicemember with a serious injury or illness **and** leave to care for a qualifying family member with a serious health condition as leave to care for a covered servicemember in the first instance. The designation notice must be in writing and, generally, must be given within five business days of the determination. An employer also must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA entitlement.

CERTIFICATION REQUIREMENTS

Employers may require that an employee's request for military family leave be supported by an appropriate certification. An employer may require that:

- leave for a qualifying exigency be supported by a copy of the covered military member's active duty orders and certification providing the appropriate facts related to the particular qualifying exigency for which leave is sought, including contact information if the leave involves meeting with a third party;
- leave to care for a covered servicemember with a serious injury or illness be supported by a certification completed by an authorized health care provider **or** by a copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered servicemember's family.

Second and third opinions and recertification are not permitted for certification of a covered servicemember's serious injury or illness or of a qualifying exigency. An employer may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious injury or illness, or an ITO or ITA. Additionally, an employer may contact the individual or entity named in a certification of leave for a qualifying exigency for purposes of verifying the existence and nature of the meeting.

UNLAWFUL ACTS

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to FMLA.

ENFORCEMENT

The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. Individuals may also be able to bring a private civil action against an employer for violations.

For additional information, visit our Wage and Hour Division Website: http://www.wagehour.dol.gov and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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Preventive Strategies and Positive Solutions for the Workplace

Growing Number of States Passing Family Military Leave Acts

July 30, 2007

With the continuing demands on the military Reserve and National Guard, a growing number of states have been passing Family Military Leave Acts giving soldiers' family members limited unpaid leave entitlements. In general, the acts allow the family members of active duty soldiers to take unpaid leave during periods leading up to or immediately following their family member's deployment and also during periods of leave while still on active duty. The new statutes vary, but employers should be cognizant of these new laws and prepared to adjust their leave procedures to comply. Currently, Illinois, Indiana, Maine, Minnesota, Nebraska, and New York have passed these laws.

Illinois

The Illinois Family Military Leave Act requires employers with 15 to 50 employees to provide up to 15 days of unpaid family military leave to the spouse or parent of a soldier called to military service lasting longer than 30 days. Employers with more than 50 employees must provide up to 30 days of unpaid leave. During the period of leave the employee's health benefits must be maintained at the expense of the employee. Additionally, the employer cannot take any adverse actions against the employee for exercising his or her rights under this act. The employer has some rights under this act, as well. The employee must provide the employer with 14 days of notice prior to taking 5 or more days of leave. Additionally, employees are not eligible for leave under this act unless they have exhausted all paid vacation, personal, or any other leave, except for sick or medical leave, that might be granted to the employee.

Indiana

The Indiana Military Family Leave Law went into effect July 1, 2007. Under this act, employers with 50 or more employees must provide 10 days of unpaid leave to the spouse, parent, grandparent, or sibling of the person who is ordered to active duty. To be eligible, the employee must have worked for the employer for the 12 months prior to the leave date, and must have worked at least 1,500 hours during those 12 months. Additionally, the employee can only take the leave during three periods: 1) the 30 days before active duty orders are in effect; 2) the 30 days following the termination of the person's active duty; or 3) while the person is still on active duty but is on leave. Additionally, the employer has the right to require verification from employees of their eligibility under this act, as well as 30 days' written notice of the requested leave, when it is possible. The employee's health benefits can continue during the leave period at the employee's expense. Finally, the employee must be restored to the same position or one of equal status when he or she has returned from leave.

Maine

The current Family Military Leave Law requires employers with 50 or more employees to provide up to 15 days of unpaid leave to the spouse, domestic partner, or parent of the person ordered to active duty for a period of 180 days or longer. The employee must have been working for the same employer for 12 months or longer and for a minimum of 1,250 hours during the previous 12 months. Employees currently are eligible to take leave under this act only during the 15 days immediately prior to deployment or during the 15 days immediately following deployment. An employee who requests leave for 5 days or longer must notify the employer in writing at least 14 days prior to the leave. Additionally, the employer has the right to require certification that the employee is in fact eligible for leave under this act. As of September 20, 2007, an amended Family Military Leave Law will become effective. The new law will make the Family Military Leave Law applicable to employers with 15 or more employees. Additionally, employees will be able to take leave not only during the 15 days prior to and following deployment, but also during periods when the person is on leave during active duty.

Minnesota

Employers must grant the parent, child, sibling, or spouse of a person killed or injured while on active duty in the military up to 10 days of unpaid leave. The employer has the right to require the employee to use any paid leave, except for sick or medical leave, prior to taking any unpaid leave under this act. The employee is required to give the employer only as much notice as is possible prior to taking the leave. Additionally, employers are required to provide up to 1 day unpaid leave for the parent, child, sibling, or spouse of the person ordered to or returning from active duty to attend the send-off ceremony or homecoming.

Nebraska

Employers in Nebraska with 15 to 50 employees are required to provide up to 15 days of unpaid family military leave to the parent or spouse of a person being called to active duty for longer than 179 days. Employers with more than 50 employees must provide up to 30 days of unpaid family military leave. To be eligible under this law, the employee must have worked for the employer for at least 12 months prior to the requested leave and must have worked for at least 1,250 hours during that time period. An employee who requests leave for longer than 5 days is required to give the employer at least 14 days' notice prior to the time the leave is going to begin. Additionally, employers are required to restore the employees to their original or equivalent positions when they return from their leave. While on leave, employees can continue to receive their health benefits at their own expense.

New York

When the New York Family Military Leave Law became effective in August of 2006, it was the first state to have a family military leave law requiring employers to provide unpaid time off to family members of those on active duty in the military. The law requires employers with 20 or more employees to provide the spouse of a person on active duty in a combat theater or zone of operations

up to 10 days of unpaid leave. Under the New York law, time off may only be taken while the person in the military is on leave from active duty. To be eligible for leave under this law, the employee must work for the employer from which leave is sought for at least 20 hours per week. This law does not require any minimum length of service for eligibility. Additionally, the employee is not required to give the employer notice prior to taking leave. Also, employers are not permitted to retaliate against employees taking this leave.

Jackson Lewis attorneys are available to answer inquiries regarding these new laws and assist employers in achieving compliance with their requirements.

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http://www.jacksonlewis.com/legalupdates/article.cfm?aid=1168

America's Newspapers

Senate looks at time off for spouse during leave

Olympian, The (WA) - Tuesday, February 19, 2008

Author: *Michael Gilbert, The News tribune*

There are few things as sacred for service members and their loved ones enduring a combat deployment as midtour leave.

Troops in Iraq and Afghanistan get up to 18 days of time out of the war zone. Most use the time to relax at home with their families.

The timing sometimes is unpredictable. Leaves are known to be postponed at the last minute because of the operational needs of the service member's unit. Flights out get diverted. But when the leave finally comes through, the last thing the spouse at home needs is trouble with the boss about getting time away from work.

That's the point of Senate Bill 6447, a measure being considered in Olympia that would require employers to give up to 15 days of unpaid leave to employees whose military spouses are home on leave from the war zone.

It's one of a couple dozen military and veterans-related bills still alive in the Legislature as lawmakers move toward today's cutoff deadline. Measures must pass out of the chamber in which they originated or they're considered dead for the session.

"It seems like a law that shouldn't even be necessary, but if it helps assure that people get their time off, that's one less thing to worry about," said Caedmon Cahill, a Seattle public defender whose husband, Leo, is a company commander with the 173rd Airborne Brigade in Afghanistan. "He's due home on leave in March."

Cahill heard from her mother-in-law about how other states had passed a similar law, and talking with a friend, learned about how she had to fight to get a mere two days off when her husband came home from Iraq.

"I realized Washington didn't have this law, and I was starting a new job at the time," Cahill said. "I thought this would make it easier for people to feel comfortable and safe in asking for the time off."

Cahill, a year out of law school, enlisted a friend who is a lobbyist, and the two drafted the bill - the Family Military Leave Act - at her kitchen table over a weekend. It cleared the Senate Government Operations & Elections Committee in late January and was waiting for a vote on the Senate floor.

The bill's sponsor, Sen. Steve Hobbs, a Lake Stevens Democrat and Army Iraq veteran, said he expects the measure will clear the Senate. No one spoke in opposition to the bill in committee.

"Our service members families gave pretty compelling testimony, and on top of that we have the 81st Brigade Combat Team getting ready to deploy," Hobbs said, referring to the Washington National Guard brigade that is expected to return to Iraq late this summer.

"This is really going to address their needs," he said.

Other bills

Other bills still alive include a number of technical fixes to correct the unforeseen complications that arise when state or local government employees are called up to full-time service in the National Guard or reserves. For instance, one would ensure that employees get credit toward their retirement, while another would see that they get paid on time, and another would extend military leaves of absence for government employees from 15 to 30 days.

There are also House and Senate bills to create a new state license plate for parents whose service-member children are killed in military service.

There are House and Senate versions of bills to protect the child-custody rights of service members when they're deployed overseas. The House passed a bill to allow service members who left high school before graduating in order to serve in Vietnam to receive their diplomas.

"They're definitely paying attention to veterans issues," said Heidi Audette, spokeswoman for the state Department of Veterans Affairs. "There are a lot of issues that are still moving, probably more than in past sessions."

More bills are still alive past the cutoff.

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The Oregon Biz Report - Business News from Oregon

Oregon Military Leave Act now in effect

August 9, 2009

Bullard Smith Jernstedt Wilson
BULLARD eAlert

1. **Oregon Military Leave Act**
2. **Oregon Workplace Religious Freedom Act:**
3. **Annual Labor and Employment Law Briefing– 11/14/09:**

On June 25, 2009, the Oregon Military Family Leave Act went into effect, requiring all public, private, and not-for-profit employers of 25 or more employees in Oregon to provide up to 14 days of unpaid leave to "eligible" employees who are spouses of members of the armed forces during periods of military conflict. Click the following link to read the Bullard Alert describing the OMFLA in more detail: http://www.bullardlaw.com/Resources/BullardAlerts.html.

Oregon Workplace Religious Freedom Act:
Last week Governor Kulongoski signed the Oregon Workplace Religious Freedom Act, which goes into effect January 1, 2010. Among other things, absent "undue hardship" the Act prohibits an employer from "impos[ing] an occupational requirement that restricts the ability of an employee to wear religious clothing, to take time off for a holy day or to take time off to participate in a religious observance or practice." Further, the Act also requires that an employer permit an employee to use accrued "vacation leave, or other leave available to the employee, for the purpose of allowing the employee to engage in the religious observance or practices of the employee". While the Act applies to most workplaces, makes an exception for school districts, education service districts and public charter schools, which may prohibit teachers from wearing religious dress while engaged in the performance of duties as a teacher.

Annual Labor and Employment Law Briefing– October 14, 2009:
On October 14 we will be presenting our Annual Labor and Employment Law Briefing at the Oregon Convention Center. This continues our tradition of providing you with an annual update on current labor and employment law issues facing owners, executives, managers, in house counsel and human resources professionals, including review of recent case decisions, monitoring employee use of the internet and email, and employee wellness. Our guest speaker this year will be Brad Barton, a 1992 US Olympic Trials qualifier, master magician, and successful business person. MCLE and PHR credit is pending.

Registration: You may obtain more information about and register to attend the Annual Briefing by clicking on http://www.bullardlaw.com/Resources/SeminarsWorkshops.html or by contacting Coni Crone (503.248.1134 or ccrone@bullardlaw.com). We look forward to seeing you there.

At Your Service:
Please feel free to contact us with questions or for more information about the Oregon Military Family Leave Act, the Oregon Workplace Religious Freedom Act, or other developments affecting employment, labor relations and employee benefits. You may reach us anytime at 503/248-1134 or on the web at www.bullardlaw.com. Thank you.

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Lawyers Alliance *for* New York

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December 2007

New York Enacts the Military Spouse Leave Act

New York has become the first state to require employers[1] to grant unpaid leave to employees[2] that are spouses of service members, including members of the United States armed forces, national guard or reserves who have been deployed during a period of military conflict[3] to a combat zone. Section 202-i of the Labor Law (the "Act") mandates that employers must grant the spouse ten (10) days unpaid leave when the spouse serving in the military is on leave. An employer may not retaliate against an employee for requesting a leave of absence under the Act.

Where the Act can be found: NY Labor § 202-i.

When the Act became effective: The amendment is effective retroactive to August 16, 2006, the date Labor Law § 202-i was originally enacted.

Practice Guidelines: Employers must grant an employee's request for unpaid leave of absence if he or she: (i) works an average of twenty or more hours per week, regardless of length of employment; and (ii) has a spouse serving in the military who is on leave. An employer may not refuse a leave of absence due to potential adverse effects resulting from the leave. Employees are not required to give advance notice of their intention to take leave under the Act. An employee's vacation days will be unaffected by the decision to take unpaid leave.

The Act only applies to spouses, rather than family members or significant others of military personnel. However, employers offering domestic partner benefits to their employees should consider whether to allow domestic partners of service members to also receive unpaid leave under the Act. Additionally, employers should consider including information regarding the Act in their personnel handbook and/or policy manuals.

This alert is meant to provide general information only, not legal advice. Please contact Angela Cheng at Lawyers Alliance for New York at (212) 219-1800 x 278 or visit our website www.lawyersalliance.org for further information.

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[1] Employer means a person or entity that employs twenty or more employees in at least one location and includes an individual, corporation, the state, county, town, city, school district, public authority or other governmental subdivision of any kind.

[2] Employee means a person who performs service for hire for an employer for an average of twenty or more hours per week but does not include an independent contractor.

[3] Period of Military Conflict means a period of war declared by the United States Congress or in which a member of a reserve component of the armed forces is ordered to active duty.

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Employment Law Alert
Legal developments affecting human resource management

A publication of Nixon Peabody LLP

JULY 31, 2008

Rhode Island Military Family Relief Act Imposes New Leave Requirements on Large and Small Employers

By Neal J. McNamara and Jillian S. Folger-Hartwell

On June 23, 2008, Governor Carcieri signed into law the Rhode Island Military Family Relief Act, H.B. 7774, 2008 Leg. Sess. (R.I. 2008), S.B. 2760, 2008 Leg. Sess. (R.I. 2008) (to be codified at R.I. Gen. Laws §§ 30-33-1 et seq.)("Act"), which took effect immediately. This new leave law has important implications for Rhode Island employers, both small and large.

Under the Act, spouses or parents of individuals who are called to military service lasting longer than thirty (30) days may request family military leave. Businesses that employ between fifteen (15) and fifty (50) employees must provide up to fifteen (15) total days of leave to such an employee during the time the federal or state military orders are in effect. Employers who have more than fifty (50) employees must provide up to thirty (30) total days of family military leave.

This leave may be unpaid and may only be taken if the employee has exhausted all accrued vacation leave, personal leave, compensatory leave, or any other leave that may be granted to the employee, with the exception of sick or disability leave. In addition, if the leave will consist of five (5) consecutive workdays or more, at least fourteen (14) days' notice must be given to an employer. If the leave consists of less than five (5) consecutive days, the employee need only give as much advance notice as is "practicable." Employers may, however, require certification from the proper military authority to verify the employee's eligibility to take the requested family military leave.

During any family military leave, the employee must be permitted to continue their benefits at their own expense. The employer and employee, however, may negotiate for the employer to maintain benefits at the employer's expense for the duration of the leave. Upon return from leave, employees must be reinstated to the same position or a position with "equivalent seniority status, employee benefits, pay and other terms and conditions of employment."

The Act imposes several new requirements on employers. First, although businesses that employ fewer than fifty (50) employees are not required to provide leave under the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq. (2008), or the Rhode Island Parental and Family Medical Leave Act ("RIPFMLA"), R.I. Gen. Laws §§ 28-48-1 et seq. (2008), businesses with as few as fifteen (15) employees are subject to the new Act's provisions. In addition, unlike the leave provisions of the FMLA and the RIPFMLA, an employee need not provide any reason for leave under the Act, but

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ATTORNEYS AT LAW

need only show that his or her spouse or child has been called to military service lasting longer than thirty (30) days. Moreover, unlike leave provided under the FMLA and/or RIPFMLA, an employee's eligibility for leave is not measured based on the number of days the employee has taken in a calendar year; rather, the employee is entitled to this leave "during the time the federal or state orders are in effect." Thus, an employee may be eligible for family military leave under the Act, even if he or she has exhausted his or her allotted FMLA or RIPFMLA leave time.

Like the FMLA and the RIPFMLA, the Act provides that an employee must be reinstated to the same or a similar position upon his or her return from leave. Thus, employers may need to fill some positions temporarily for up to thirty (30) days. In addition, the Act appears to contemplate, and certainly does not prohibit, that this leave may be taken intermittently. Thus, an employer could be faced with numerous absences of varying lengths during the time the employee's family member has active orders. Moreover, the Act's provision that benefits may be continued at the employee's expense has little practical value for an employer because the amount of leave time permitted under the Act amounts to no more than a total of thirty (30) days. It would likely be administratively cumbersome for an employer to attempt to have an employee pay for his or her benefits during such short periods of leave time.

Ultimately, employers who previously believed they were not required to comply with federal and state family leave laws because they have fewer than fifty (50) employees, may need to update or develop leave policies based on the Act's provisions. In addition, larger employers will need to review and update their leave policies to ensure their existing policies comply with the Act.

For more information on this or any other labor or employment law matter, please contact your regular Nixon Peabody attorney or:

- Neal J. McNamara at 401-454-1019 or nmcnamara@nixonpeabody.com
- Jillian S. Folger-Hartwell at 401-454-1046 or jfolgerhartwell@nixonpeabody.com

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AdministrativeServices

William J. Wood, Chief Negotiator

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Family Military Leave Act

LB 497 was passed by the Legislature, signed by the Governor and went into effect on April 5, 2007. Family Military Leave is leave requested by an employee who is the spouse or parent of a person called to military service lasting 179 days or longer, with the State or United States pursuant to the orders of the Governor or President of the United States.

Covered employers: If the employer employs between 15 and 50 employees, the employer shall provide up to 15 work days of unpaid leave. If the employer employs more than 50 employees, the employer shall provide up to 30 work days of unpaid leave. The State employs more than 50 employees, so employees may request up to 30 work days of leave. The number of days granted are at the discretion of the employer.

Eligible Employee: An eligible employee has been employed by the same covered employer for at least 12 months and has been employed for at least 1250 hours during that 12 month period immediately preceding the commencement of leave. Employee is the spouse or parent of a person called to military service lasting 179 calendar days or longer.

Notice: The employee shall give at least 14 calendar days of notice of taking leave if the leave will consist of five or more consecutive work days.

Employee Rights: When the leave ends, the employee must be restored to the position previously held or to a position with equivalent seniority status, benefits, pay, etc., except when the employer proves the employee is not restored due to reasons unrelated to taking leave.

The employee may continue benefits, during leave, at the employee's expense. The employee's service date will be adjusted after 14 calendar days of unpaid leave.

The Act provides that the employee may negotiate with the employer, for the employer to maintain benefits at the employer's expense during the leave period. As the State had concluded collective bargaining when this Act was passed, for the purpose of benefits, employees taking Family Military Leave will be treated the same as other employees taking non-Family Medical Leave Act unpaid leave. The State contribution to health insurance will continue for the first nine work days of the leave. Taking Family Military Leave shall not result in the loss of benefits accrued before the leave started (treated similar to a leave of absence).

For Additional Information Contact the DAS Employee Relations Division (William J. Wood 402-471-4106; Jeannie O'Meara 402-471-8292; or Gail Brolliar 402-471-4104.)

Public Act 094-0589

Public Act 094-0589

SB1627 Enrolled

LRB094 10133 RXD 40395 b

AN ACT concerning employment.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Family Military Leave Act.

Section 5. Definitions. In this Act:

"Employee" means any person who may be permitted, required, or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment. "Employee" does include an independent contractor. "Employee" includes an employee of a covered employer who has been employed by the same employer for at least 12 months, and has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave.

"Employee benefits" means all benefits, other than salary and wages, provided or made available to employees by an employer and includes group life insurance, health insurance, disability insurance and pensions, regardless of whether benefits are provided by a policy or practice of an employer.

"Employer" means (1) any person, partnership, corporation, association, or other business entity; and (2) the State of Illinois, municipalities and other units of local government.

"Family military leave" means leave requested by an employee who is the spouse or parent of a person called to military service lasting longer than 30 days with the State or United States pursuant to the orders of the Governor or the President of the United States.

Section 10. Family Military Leave Requirement.

(a) Any employer, as defined in Section 5 of this Act, that employs between 15 and 50 employees shall provide up to 15 days of unpaid family military leave to an employee during the time federal or State deployment orders are in effect, subject to the conditions set forth in this Section. Family military leave granted under this Act may consist of unpaid leave.

(b) An employer, as defined in Section 5 of this Act, that employs more than 50 employees shall provide up to 30 days of unpaid family military leave to an employee during the time

federal or State deployment orders are in effect, subject to the conditions set forth in this Section. Family military leave granted under this Act may consist of unpaid leave.

(c) The employee shall give at least 14 days notice of the intended date upon which the family military leave will commence if leave will consist of 5 or more consecutive work days. Where able, the employee shall consult with the employer to schedule the leave so as to not unduly disrupt the operations of the employer. Employees taking military family leave for less than 5 consecutive days shall give the employer advanced notice as is practicable. The employer may require certification from the proper military authority to verify the employee's eligibility for the family military leave requested.

(d) An employee shall not take leave as provided under this Act unless he or she has exhausted all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the employee, except sick leave and disability leave.

Section 15. Employee benefits protection.

(a) Any employee who exercises the right to family military leave under this Act, upon expiration of the leave, shall be entitled to be restored by the employer to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay and other terms and conditions of employment. This Section does not apply if the employer proves that the employee was not restored as provided in this Section because of conditions unrelated to the employee's exercise of rights under this Act.

(b) During any family military leave taken under this Act, the employer shall make it possible for employees to continue their benefits at the employee's expense. The employer and employee may negotiate for the employer to maintain benefits at the employer's expense for the duration of the leave.

Section 20. Effect on existing employee benefits.

(a) Taking family military leave under this Act shall not result in the loss of any employee benefit accrued before the date on which the leave commenced.

(b) Nothing in this Act shall be construed to affect an employer's obligation to comply with any collective bargaining agreement or employee benefit plan that provides greater leave rights to employees than the rights provided under this Act.

(c) The family military leave rights provided under this Act shall not be diminished by any collective bargaining agreement or employee benefit plan.

(d) Nothing in this Act shall be construed to affect or diminish the contract rights or seniority status of any other employee of any employer covered under this Act.

Section 25. Prohibited acts.

(a) An employer shall not interfere with, restrain, or deny the exercise or the attempt to exercise any right provided under this Act.

(b) An employer shall not discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee that exercises any right provided under this Act.

(c) An employer shall not discharge, fine, suspend, expel, discipline or in any other manner discriminate against any employee for opposing any practice made unlawful by this Act.

Section 30. Enforcement. A civil action may be brought in the circuit court having jurisdiction by an employee to enforce this Act. The circuit court may enjoin any act or practice that violates or may violate this Act and may order any other equitable relief that is necessary and appropriate to redress the violation or to enforce this Act.

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 8/15/2005

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Legislative Information System, 705 Stratton Building, Springfield, Illinois 62706
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America's Newspapers

Various military leave laws

Monterey County Herald, The (CA) - Friday, December 4, 2009

Author: *Jacqueline McManus Workplace Law*

QI have a fairly large company in Salinas, and I am revising the leave policies in our employee handbook. I am confused about the array of military-related leave laws.

I fully support our troops and want to provide time off as required by law, but I am having a hard time keeping track of the various military-related leaves.

A: It is prudent to review your handbook every few years to update it with new laws, and this year is no exception.

Leave laws are complicated, and the expansion of military-related leaves in the past few years present some challenges for employers.

The military leave laws to be aware of include:

California's new Military Leave Law. On Jan. 1, a new leave law will go into effect in California. The law is Assembly Bill 485, which creates the "Civil Air Patrol: California Wing: Employment Leave."

Under this law, employers are required to provide at least 10 days of unpaid leave per year to employees who are volunteer members of the California Wing of the Civil Air Patrol (the civilian auxiliary of the Air Force).

Employees are eligible if they have been employed 90 days or more at the time they are called to respond to "an emergency operational mission."

This law applies to companies with more than 15 employees. Eligible employees may take this leave in addition to any other leave benefits available.

Upon expiration of the Civil Air Patrol leave, employers are required to restore the employee to the position held when the leave began or to an equivalent position.

California Leave for Spouse or Registered Domestic Partner of Qualified Service member: This leave permits eligible employees to take up to 10 days unpaid leave during the time the employee's spouse or registered domestic partner is on leave from deployment during a period of military conflict.

To be eligible, the employee must be the spouse or registered domestic partner of a member of the U.S. Armed Forces who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the president; or a member of the National Guard or Reserves who has been deployed during a period of military conflict.

Employees who work an average of 20 or more hours per week are eligible for this leave.

Federal Family Medical Leave Act (FMLA): The FMLA applies to employers with 50 or more employees.

To qualify for FMLA leave, the employee must have worked for the employer at least one full year (52 weeks). The employee must also have worked at least 1,250 hours during the 12-month period immediately before the leave would begin.

The FMLA provides two types of military leaves:

* Military caregiver leave: Eligible employees may take up to 26 weeks unpaid leave in a single 12-month period to care for a covered service member.

A covered service member is the employee's spouse, child, parent or next of kin (nearest blood relative) who is a member of the U.S. Armed Forces (including the National Guard or Reserve), who is undergoing medical treatment for a serious injury or illness that occurred any time during the five years preceding the date of treatment, or who is temporarily disabled because of a serious injury or illness incurred in the line of active duty.

This leave is measured from the first day an employee takes leave. Employee health insurance and other benefits must continue for the entire leave period, up to 26 weeks.

* Qualifying exigency leave: An employee may take up to 12 weeks unpaid leave for one of eight defined nonmedical "qualifying exigencies" arising out of the fact that the employee's parent, child (including an adult child) or spouse is on active duty or is called to active duty in the U.S. Armed Forces, National Guard or Reserves.

Federal and state military leave. Employees who serve in U.S. military organizations or state militia groups may take unpaid leave to fulfill their service obligations. Upon completion of their service, eligible employees are entitled to reinstatement to their position, or to an equivalent position.

When an employee requests leave, it is important to determine if the employee is eligible for leave, and then determine how many leave days the employee is qualified to take.

Jacqueline McManus is a lawyer with the Fenton & Keller law firm in Monterey. This column is intended to answer questions of general interest and should not be construed as legal advice. Mail queries to "Workplace Law," c/o The Monterey County Herald, P.O. Box 271, Monterey 93942.

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