

CHAPTER 192

NATIONAL GUARD

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192.19 RETIRED MEMBERS MAY BE ORDERED TO ACTIVE DUTY.

The commander-in-chief or the adjutant general may assign officers, warrant officers, and enlisted personnel on the retired list, with their consent, to temporary active service in recruiting, upon courts-martial, courts of inquiry and boards, to staff duty not involving service with troops, or in charge of a military reservation left temporarily without officers. Such personnel while so assigned shall receive the full pay and allowances of their grades at time of retirement, except that the commander-in-chief or the adjutant general may authorize pay and allowances in a higher grade when it is considered appropriate based on special skills or experience of the person being assigned to temporary active service.

History: 2005 c 156 art 4 s 2

192.261 LEAVE OF ABSENCE.

Subdivision 1. **Leave of absence without pay.** Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who engages in active service in time of war or other emergency declared by proper authority in any of the military or naval forces of the state or of the United States for which leave is not otherwise allowed by law shall be entitled to leave of absence from the officer's or employee's public office or employment without pay during such service, with right of reinstatement as hereinafter provided. Such leave of absence without pay, whether heretofore or hereafter, shall not extend beyond four years plus such additional time in each case as such an officer or employee may be required to serve pursuant to law. This shall not be construed to preclude the allowance of leave with pay for such service to any person entitled thereto under section 43A.183, 192.26, or 471.975. Nothing in this section contained shall affect any of the provisions or application of section 352.27 nor of section 192.26 to 192.264, or any laws amendatory thereof, insofar as such sections pertain to the state employees retirement association or its members.

Subd. 2. **Reinstatement.** Except as otherwise hereinafter provided, upon the completion of such service such officer or employee shall be reinstated in the public position, which was held at the time of entry into such service, or a public position of like seniority, status, and pay if such is available at the same salary which the officer or employee would have received if the leave had not been taken, upon the following conditions: (1) that the position has not been abolished or that the term thereof, if limited, has not expired; (2) that the officer or employee is not physically or mentally disabled from performing the duties of such position; (3) that the officer or employee makes written application for reinstatement to the appointing authority within 90 days after termination of such service, or 90 days after discharge from hospitalization or medical treatment which immediately follows the termination of, and results from, such service; provided such application shall be made within one year and 90 days after termination of such service notwithstanding such hospitalization or medical treatment; (4) that the officer or employee submits an honorable discharge or other form of release by proper authority indicating that the officer's or employee's military or naval service was satisfactory. Upon such reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, sick leave, and other benefits as if that officer or employee had been actually employed during the time of such leave. The officer or employee reinstated under this section is entitled to vacation and sick leave with pay as provided in any applicable civil

service rules, collective bargaining agreement, or compensation plan, and accumulates vacation and sick leave from the time the person enters active military service until the date of reinstatement without regard to any otherwise applicable limits on civil service rules limiting the number of days which may be accumulated. No officer or employee so reinstated shall be removed or discharged within one year thereafter except for cause, after notice and hearing; but this shall not operate to extend a term of service limited by law.

[For text of subs 3 to 6, see M.S.2004]

History: 2005 c 35 s 2; 2005 c 156 art 4 s 3

NOTE: The amendment to subdivision 1 by Laws 2005, chapter 35, section 2, is effective May 6, 2005, and applies to state employees serving in active military service on or after May 29, 2003. Laws 2005, chapter 35, section 2, the effective date.

NOTE: The amendment to subdivision 2 by Laws 2005, chapter 156, article 4, section 3, is effective June 4, 2005, and applies to any public officer or public employee serving in active military service on or after September 11, 2001. Laws 2005, chapter 156, article 4, section 3, the effective date.

192.501 FINANCIAL INCENTIVES FOR NATIONAL GUARD MEMBERS.

[For text of subs 1a and 1b, see M.S.2004]

Subd. 2. **Tuition and textbook reimbursement grant program.** (a) The adjutant general shall establish a program to provide tuition and textbook reimbursement grants to eligible members of the Minnesota National Guard within the limitations of this subdivision.

(b) Eligibility is limited to a member of the National Guard who:

(1) is serving satisfactorily as defined by the adjutant general;

(2) is attending a postsecondary educational institution, as defined by section 136A.15, subdivision 6, including a vocational or technical school operated or regulated by this state or another state or province; and

(3) provides proof of satisfactory completion of coursework, as defined by the adjutant general.

(c) Notwithstanding paragraph (b), clause (1), for a person who:

(1) has satisfactorily completed the person's service contract in the Minnesota National Guard or the portion of it involving selective reserve status, for which any part of that service was spent serving honorably in federal active service or federally funded state active service since September 11, 2001, the person's eligibility is extended for a period of two years, plus an amount of time equal to the duration of that person's active service, subject to the credit hours limit in paragraph (g); or

(2) has served honorably in the Minnesota National Guard and has been separated or discharged from that organization due to a service-connected injury, disease, or disability, the eligibility period is extended for eight years beyond the date of separation, subject to the credit hours limit in paragraph (g).

(d) If a member of the Minnesota National Guard is killed in the line of state active service or federally funded state active service, the member's surviving spouse, and any surviving dependent who has not yet reached 24 years of age, is eligible for a tuition and textbook reimbursement grant, with each eligible person independently subject to the credit hours limit in paragraph (g).

(e) The adjutant general may, within the limitations of paragraphs (b) to (d) and other applicable laws, determine additional eligibility criteria for the grant, and must specify the criteria in department regulations and publish changes as necessary.

(f) The amount of a tuition and textbook reimbursement grant must be specified on a schedule as determined and published in department regulations by the adjutant general, but is limited to a maximum of an amount equal to the greater of:

(1) up to 100 percent of the cost of tuition for lower division programs in the College of Liberal Arts at the Twin Cities campus of the University of Minnesota in the most recent academic year; or

(2) up to 100 percent of the cost of tuition for the program in which the person is enrolled at that Minnesota public institution, or if that public institution is outside the state of Minnesota, for the cost of a comparable program at the University of Minnesota, except that in the case of a survivor as defined in paragraph (d), the amount of the tuition and textbook reimbursement grant for coursework satisfactorily completed by the person is limited to 100 percent of the cost of tuition for postsecondary courses at a Minnesota public educational institution.

(g) Paragraphs (b) to (e) notwithstanding, a person is no longer eligible for a grant under this subdivision once the person has received grants under this subdivision for the equivalent of 208 quarter credits or 144 semester credits of coursework.

(h) Tuition and textbook reimbursement grants received under this subdivision may not be considered by the Minnesota Higher Education Services Office or by any other state board, commission, or entity in determining a person's eligibility for a scholarship or grant-in-aid under sections 136A.095 to 136A.1311.

(i) If a member fails to complete a term of enlistment during which a tuition and textbook reimbursement grant was paid, the adjutant general may seek to recoup a prorated amount as determined by the adjutant general. However, this authority does not apply to a person whose separation from the Minnesota National Guard is due to a medical condition or financial hardship.

(j) For purposes of this section, the terms "active service," "state active service," "federally funded state active service," and "federal active service" have the meanings given in section 190.05, subdivisions 5 to 5c, respectively, except that for purposes of paragraph (c), clause (1), these terms exclude service performed exclusively for purposes of:

- (1) basic combat training, advanced individual training, annual training, and periodic inactive duty training;
- (2) special training periodically made available to reserve members;
- (3) service performed in accordance with section 190.08, subdivision 3; and
- (4) service performed as part of the active guard/reserve program pursuant to United States Code, title 32, section 502(f), or other applicable authority.

[For text of subd 3, see M.S.2004]

History: 2005 c 156 art 4 s 4

NOTE: The amendment to subdivision 2 by Laws 2005, chapter 156, article 4, section 4, is effective June 4, 2005, and applies to persons who have served in the Minnesota National Guard at any time since September 11, 2001, and if the person has died in the line of service, to the person's surviving spouse and dependents. Laws 2005, chapter 156, article 4, section 4, the effective date.

192.502 PROTECTIONS.

Subdivision 1. **Postsecondary students.** (a) As used in this subdivision, the terms "qualified person" and "qualified student" have the same meaning and include:

(1) any student at a postsecondary educational institution who is ordered into active military service, as defined in section 190.05, subdivision 5; and

(2) a veteran, as defined in section 197.447, who has a service-connected disability as certified by the United States Department of Veterans Affairs, who is a student at a postsecondary educational institution, and whose service-connected medical condition or medical treatment requirements reasonably prevent the person's attendance at or progress in part or all of the person's higher educational training or studies at any given time. The terms "medical condition" and "medical treatment requirements" must be broadly construed and without regard for whether or not they relate directly to the person's service-connected disability.

(b) A qualified person or qualified student has the following rights:

(1) with regard to courses in which the person is enrolled, the person may:

(i) withdraw from one or more courses for which tuition and fees have been paid that are attributable to the courses. The tuition and fees must be credited to the person's account at the postsecondary institution. Any refunds are subject to the

requirements of the state or federal financial aid programs of origination. In such a case, the student must not receive credit for the courses and must not receive a failing grade, an incomplete, or other negative annotation on the student's record, and the student's grade point average must not be altered or affected in any manner because of action under this item;

(ii) be given a grade of incomplete and be allowed to complete the course upon release from active service, upon completion of medical treatment, or upon sufficient medical recovery under the postsecondary institution's standard practice for completion of incompletes; or

(iii) continue and complete the course for full credit. Class sessions the student misses due to performance of active military service or due to the person's medical treatment or medical condition must be counted as excused absences and must not be used in any way to adversely impact the student's grade or standing in the class. Any student who selects this option is not, however, automatically excused from completing assignments due during the period the student is performing active military service or receiving medical treatment or recovering from a medical condition. A letter grade or a grade of pass must be awarded only if, in the opinion of the faculty member teaching the course, the student has completed sufficient work and has demonstrated sufficient progress toward meeting course requirements to justify the grade;

(2) to receive a refund of amounts paid for room, board, and fees attributable to the time period during which the student was serving in active military service or receiving medical treatment or dealing with the person's medical condition and did not use the facilities or services for which the amounts were paid. Any refund of room, board, and fees is subject to the requirements of the state or federal financial aid programs of origination; and

(3) if the student chooses to withdraw, the student has the right to be readmitted and reenrolled as a student at the postsecondary education institution, without penalty or redetermination of admission eligibility, within two years following release from the state or federal active military service or following completion of medical treatment or sufficient recovery from the person's medical condition.

(c) The protections in this section may be invoked as follows:

(1) the qualified person or qualified student, or an appropriate officer from the military organization in which the person will be serving, or an appropriate medical authority or the person's authorized caregiver or family member, must give advance verbal or written notice that the person is being ordered to active military service or will be undertaking medical treatment or a period of recovery for a medical condition;

(2) advance notice is not required if the giving of notice is precluded by military or medical necessity or, under all the relevant circumstances, the giving of notice is impossible or unreasonable; and

(3) upon written request from the postsecondary institution, the person must provide written verification of the order to active service or of the existence of the medical condition or medical treatment.

(d) This section provides minimum protections for qualified students. Nothing in this section prevents postsecondary institutions from providing additional options or protections to students who are ordered to active military service or are undertaking medical treatment or a period of recovery from a medical condition.

Subd. 2. Renewal of professional license, driver's license and motor vehicle registration. (a) The renewal of a license or certificate of registration for a person who has been ordered to active military service and who is required by law to be licensed or registered in order to carry on or practice a trade, employment, occupation, or profession in the state is governed under sections 326.55 and 326.56.

(b) The renewal of a driver's license for a person who has been ordered to active military service is governed under section 171.27.

(c) The renewal and payment of the motor vehicle registration tax for a vehicle of a person who has been ordered to active military service is governed under section 168.031.

History: 2005 c 107 art 2 s 52; 1Sp2005 c 6 art 3 s 83