

52:13H-2.1

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2001 **CHAPTER:** 351
NJSA: 52:13H-2.1 (Military leave benefits for public officers)
BILL NO: S2378 (Substituted for A3386)

SPONSOR(S): Cafiero

DATE INTRODUCED: May 14, 2001

COMMITTEE: **ASSEMBLY:** Appropriations
SENATE: Senior Citizens; Budget

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 3, 2002
SENATE: December 17, 2001

DATE OF APPROVAL: January 6, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

S2378

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

8-23-2001(Sen&Vet Af.)
12-13-2001(Budget)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL NOTE: Yes

A3386

SPONSORS STATEMENT: (Begins on page 4 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

5-3-2001(Commerce)
12-20-2001(Appropr.)

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL NOTE: Yes

Identical to fiscal note for S2378

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government

Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

SENATE, No. 2378

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 14, 2001

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Clarifies military leave benefits for public officers and employees.

CURRENT VERSION OF TEXT

As introduced.



S2378 CAFIERO

2

1 AN ACT concerning military leave for public officers and employees,
2 amending R.S.38:23-1, N.J.S.38A:1-1 and N.J.S.38A:4-4 and
3 repealing P.L.1953, c.350 (C.38:23-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.38:23-1 is amended to read as follows:

9 R.S.38:23-1. **[An]** a. A permanent or full-time temporary officer
10 or employee of the State or of a board, commission, authority or other
11 instrumentality of the State, or of a county, school district or
12 municipality, who is a member of the organized reserve of the Army
13 of the United States, United States Naval Reserve, United States Air
14 Force Reserve or United States Marine Corps Reserve, or other
15 organization affiliated therewith, including the National Guard of other
16 states, shall be entitled, in addition to pay received, if any, as a
17 member of a reserve component of the Armed Forces of the United
18 States, to leave of absence from his or her respective duty without loss
19 of pay or time on all work days on which he or she shall be engaged
20 in [field training] mandatory Federal active duty or mandatory active
21 duty for training, provided, however, that such leaves of absence shall
22 not exceed 30 work days in any calendar year. All Federal active duty
23 and active duty for training shall be deemed mandatory unless
24 otherwise specified on the member's orders. Such leave of absence
25 shall be in addition to the regular vacation or other accrued leave
26 allowed such officer or employee. Any leave of absence for such duty
27 in excess of 30 work days shall be without pay but without loss of
28 time.

29 b. Notwithstanding subsection a. of this section, a full-time
30 temporary officer or employee who has served under such temporary
31 appointment for less than one year shall receive for the service
32 hereinabove described leave without pay but without loss of time.

33 (cf: P.L.1953, c.351, s. 1)
34

35 2. N.J.S.38A:1-1 is amended to read as follows:

36 38A:1-1. The following definitions apply to this Title:

37 (a) "Militia" means all the military forces of this State, whether
38 organized, or active or inactive.

39 (b) "National Guard" means the Army National Guard and the Air
40 National Guard.

41 (c) "Army National Guard" means that part of the organized militia
42 that is a land force, is trained and has its officers appointed under the
43 16th clause of section 8, Article I of the Constitution of the United

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 States, is organized, armed and equipped wholly or partly at Federal
2 expense, and is Federally recognized.

3 (d) "Army National Guard of the United States" is the reserve
4 component of the Army of the United States all of whose members are
5 members of the Army National Guard.

6 (e) "Air National Guard" means that part of the organized militia
7 that is an air force, is trained and has its officers appointed under the
8 16th clause of section 8, Article I, of the Constitution of the United
9 States, is organized, armed and equipped wholly or partly at Federal
10 expense, and is Federally recognized.

11 (f) "Air National Guard of the United States" means the reserve
12 component of the Air Force of the United States all of whose members
13 are members of the Air National Guard.

14 (g) "Armed forces" means the land, air and sea forces established
15 by State or Federal laws, as applicable.

16 (h) "Military" means any part of or all of the armed forces.

17 (i) "Active duty" means full-time duty in the active military service,
18 other than active duty for training. [State service is meant unless
19 Federal service is specified.]

20 (j) "Active duty for training" means full-time duty in the active
21 military service for training purposes. [State service is meant unless
22 Federal service is specified.]

23 (k) "Inactive duty training" means duty performed by a member of
24 the organized militia other than active duty or active duty for training.

25 (l) "Officer" means commissioned officer or warrant officer.

26 (m) "Grade" means a step or degree, in a graduated field of office
27 or military rank, that is established and designated as a grade by law
28 or regulation.

29 (n) "Rank" means the order of precedence among members of the
30 armed forces.

31 (o) "Permanent duty status" means full-time employment of a
32 member of the organized militia ordered to active duty by the
33 Governor to serve in the Department of Military and Veterans' Affairs.

34 (p) "Shall" is used in an imperative sense.

35 (q) "Will" is used in a permissive sense.

36 (r) "Regulations" means the rules and regulations on the governing
37 and training of the militia.

38 (s) "Federal service" means duty in the active service of the United
39 States.

40 (t) "Armory" means any building or training installation utilized by
41 the organized militia.

42 (cf: P.L.1988, c.138, s.1)

43

44 3. N.J.S.38A:4-4 is amended to read as follows:

45 N.J.S.38A:4-4. [(a) All officials and employees] A permanent or
46 full-time temporary officer or employee of [this] the State or of [any]

1 a board [or] , commission, authority or other instrumentality of the
2 State or of [any] a county, school district or municipality who [are
3 members] is a member of the organized militia shall be entitled, in
4 addition to pay received, if any, as a member of the organized militia,
5 to leave of absence from [their] his or her respective duties without
6 loss of pay or time on all days during which [they] he or she shall be
7 engaged in mandatory State or Federal active duty[,] or mandatory
8 active duty for training [or other duty ordered by the Governor];
9 provided, however, that the such leaves of absence for Federal active
10 duty or active duty for training shall not exceed 90 work days in the
11 aggregate in any [one] calendar year. Any leave of absence for such
12 duty in excess of 90 work days shall be without pay but without loss
13 of time.

14 [(b)] b. Leave of absence for such military duty shall be in addition
15 to the regular vacation or other accrued leave allowed such officers
16 and employees by the State, county or municipal law, ordinance,
17 resolution, or regulation.

18 c. Notwithstanding subsection a. of this section, a full-time
19 temporary officer or employee who has served under such temporary
20 appointment for less than one year shall receive for the service
21 hereinabove described leave without pay but without loss of time.

22 d. State or Federal active duty and active duty for training shall be
23 deemed mandatory unless otherwise specified on the member's orders.
24 (cf: N.J.S.38A:4-4)

25

26 4. P.L.1953, c.350 (C.38:23-1.1 et seq.) is repealed.

27

28 5. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 The purpose of this bill is to clarify the law regarding paid leaves of
34 absence for public officers and employees in the performance of
35 certain service in the organized State militia (which consists of the
36 New Jersey Air and Army National Guard, Naval Militia, and State
37 Guard) or reserve components of the Armed Forces of the United
38 States. This benefit is commonly known as military leave.

39 Currently, pursuant to N.J.S.38A:4-4, a member of the National
40 Guard or other component of the organized militia of New Jersey is
41 entitled to military leave for active duty, active duty for training, and
42 other duty as ordered by the Governor. A member of the organized
43 militia of this State is limited to 90 work days of military leave per
44 calendar year for active duty, active duty for training and other duty
45 ordered by the Governor.

1 Currently, pursuant to R.S.38:23-1, a member of the reserve is
2 entitled to military leave for "field training". Field training
3 traditionally had consisted of a 2-week period in the summer, but
4 which due to the need for specialized training and use of active duty
5 in lieu of training has more recently necessitated longer periods of
6 training at different times of the year.

7 In addition to making various technical changes, the provisions of
8 the bill:

9
10 C establish a limit of 30 work days per calendar year on military leave
11 granted for Federal active duty and active duty for training to
12 members of a reserve component of the Armed Forces of the
13 United States. "Active duty for training" replaces the outdated
14 term "field training". Members of the reserve were not previously
15 entitled to military leave for active duty.

16
17 C acknowledge that the National Guard of other states is a reserve
18 component of the Armed Forces of the United States and that
19 therefore their members are entitled to military leave for Federal
20 active duty or active duty for training under R.S.38:23-1. The
21 purpose of this provision is for a member of the National Guard of
22 another state to receive military leave in the performance of duties
23 as a member of a reserve component of the Armed Forces of the
24 United States, but not in the performance of duties as a member of
25 the militia of another state. While the New Jersey National Guard
26 is also a reserve component of the Armed Forces of the United
27 States, members of the New Jersey National Guard are entitled
28 under N.J.S.38A:4-4 to enhanced military leave benefits because
29 the New Jersey National Guard has vital State responsibilities in
30 addition to its Federal responsibilities. The greater military leave
31 benefit for members of the New Jersey National Guard and other
32 components of the organized militia of the State also serves as a
33 valuable recruitment incentive.

34
35 C specify that all State and Federal active duty and active duty for
36 training will be deemed to be mandatory unless otherwise stated on
37 the member's orders. This specification addresses the results of the
38 court's ruling in Hill v. Camden, 190 N.J. Super. 418 (App. Div.
39 1983). In that ruling, the court determined that a member of the
40 National Guard is not entitled to military leave for voluntary
41 training. This ruling has resulted in some public employers having
42 taken the position that the employer has discretion to decide which
43 training is voluntary and which is mandatory, causing confusion and
44 inconsistent application of the law. The purpose of this particular
45 provision is to clarify that the decision as to whether or not a
46 particular order is mandatory belongs to the military. However, it

S2378 CAFIERO

6

- 1 is the intent of this bill that the military will work to ensure that any
2 military leave does not unnecessarily or unduly burden public
3 employers in this State.
4
- 5 C specify that paid military leave is in addition to whatever pay the
6 member receives, if any, from a component of the organized militia
7 of New Jersey or a reserve component of the Armed Forces of the
8 United States.
9
- 10 C combine separate provisions regarding military leave for temporary
11 and permanent public officers and employees in the reserve, and
12 repeal the resultant superfluous section. A second section,
13 superfluous for having been previously incorporated into another
14 section, is also repealed.
15
- 16 C clarify that in any calendar year, military leave in excess of the
17 allowable number of work days will be without pay but without loss
18 of time.
19
- 20 C clarify that military leave for members of the organized militia of
21 New Jersey is for "State and Federal active duty and active duty for
22 training". The bill eliminates a redundant reference to military leave
23 for "other duty ordered by the Governor". It is redundant because
24 such other duty is State active duty.
25
- 26 C updates the definition of "active duty" and "active duty for training"
27 to eliminate the presumption that such duty refers to State duty
28 unless Federal duty is specified.

SENATE SENIOR CITIZENS, VETERANS' AFFAIRS AND
HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 2378

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 23, 2001

The Senate Senior Citizens, Veterans' Affairs and Human Services Committee reports favorably and with committee amendments Senate Bill No. 2378.

As amended by the committee, this bill clarifies the law regarding paid leaves of absence for public officers and employees in the performance of certain service in the organized State militia (which consists of the New Jersey Air and Army National Guard, Naval Militia, and State Guard) or reserve components of the Armed Forces of the United States. This benefit is commonly known as military leave.

Currently, pursuant to N.J.S.A.38A:4-4, a member of the National Guard or other component of the organized militia of New Jersey is entitled to military leave for active duty, active duty for training and other duty as ordered by the Governor. A member of the organized militia of this State is limited to 90 work days of military leave per calendar year for active duty, active duty for training and other duty ordered by the Governor.

Currently, pursuant to N.J.S.A.38:23-1, a member of the reserve is entitled to military leave for "field training." Field training traditionally had consisted of a two-week period in the summer, but (due to the need for specialized training and use of active duty in lieu of training) has more recently necessitated longer periods of training at different times of the year.

In addition to making various technical changes in the statute, the provisions of the bill:

- C establish a limit of 30 work days per calendar year on military leave granted for any period of federal active duty to members of a reserve component of the Armed Forces of the United States. "Active duty" includes "active duty for training," which replaces the outdated term "field training." Members of the reserve were not previously entitled to military leave for active duty.
- C acknowledge that the National Guard of other states is a reserve component of the Armed Forces of the United States and that,

therefore, their members are entitled to military leave for federal active duty or active duty for training under N.J.S.A.38:23-1. The purpose of this provision is for a member of the National Guard of another state to receive military leave in the performance of duties as a member of a reserve component of the Armed Forces of the United States, but not in the performance of duties as a member of the militia of another state. While the New Jersey National Guard is also a reserve component of the Armed Forces of the United States, members of the New Jersey National Guard are entitled under N.J.S.A.38A:4-4 to enhanced military leave benefits because the New Jersey National Guard has vital State responsibilities in addition to its federal responsibilities. The greater military leave benefit for members of the New Jersey National Guard and other components of the organized militia of the State also serves as a valuable recruitment incentive.

- C specify that military leaves of absence with pay are required for any period of State and federal active duty, provided that the leaves do not exceed 30 work days in any calendar year, in the case of a member of the organized reserve of the Army of the United States, United States Naval Reserve, United States Air Force Reserve or United States Marine Corps Reserve, or other organization affiliated therewith, including the National Guard of other states, or 90 work days in any calendar year in the case of a member of the organized State militia (which includes the New Jersey Air and Army National Guard, Naval Militia and State Guard).
- C specify that paid military leave is in addition to whatever pay the member receives, if any, from a component of the organized militia of New Jersey or a reserve component of the Armed Forces of the United States.
- C combine separate provisions regarding military leave for temporary and permanent public officers and employees in the reserve, and repeal the resultant superfluous section. A second section, superfluous for having been previously incorporated into another section, is also repealed.
- C clarify that in any calendar year, military leave in excess of the allowable number of work days will be without pay but without loss of time.
- C clarify that military leave for members of the organized militia of New Jersey is for "State and federal active duty." The bill eliminates a redundant reference to military leave for "other duty ordered by the Governor." It is redundant because such other duty is State active duty.
- C updates the definition of "active duty" and "active duty for training" to eliminate the presumption that such duty refers to State duty unless federal duty is specified; deletes the references to "full-time" in these definitions; and also deletes language in the

definition of "active duty" that excluded "active duty for training" from being considered "active duty."

- C stipulate that any costs incurred as a result of the provisions of this bill shall be reimbursed by the State upon application for reimbursement by a county or municipal governing body or a board of education to the State Treasurer and approval of the application by the Director of the Division of Budget and Accounting.

The committee amendments:

- eliminate the references to mandatory federal or State duty and provide that the military leave benefit is for any period of federal or State active duty;

- delete the references to "full-time" in the definitions of "active duty" and "active duty for training"

- delete language in the definition of "active duty" that excluded "active duty for training" from being considered "active duty"; and

- provide that any costs incurred as a result of the provisions of this bill shall be reimbursed by the State upon application for reimbursement by a county or municipal governing body or a board of education to the State Treasurer and approval of the application by the Director of the Division of Budget and Accounting.

[First Reprint]

SENATE, No. 2378

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MAY 14, 2001

Sponsored by:

Senator JAMES S. CAFIERO

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Assemblymen Azzolina, Asselta and Conners

SYNOPSIS

Clarifies military leave benefits for public officers and employees.

CURRENT VERSION OF TEXT

As reported by the Senate Senior Citizens, Veterans' Affairs and Human Services Committee on September 6, 2001, with amendments.



(Sponsorship Updated As Of: 1/4/2002)

1 AN ACT concerning military leave for public officers and employees,
2 amending R.S.38:23-1, N.J.S.38A:1-1 and N.J.S.38A:4-4 and
3 repealing P.L.1953, c.350 (C.38:23-1 et seq.).

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.38:23-1 is amended to read as follows:

9 ¹[R.S.]¹ 38:23-1. [An] a. A permanent or full-time temporary
10 officer or employee of the State or of a board, commission, authority
11 or other instrumentality of the State, or of a county, school district or
12 municipality, who is a member of the organized reserve of the Army
13 of the United States, United States Naval Reserve, United States Air
14 Force Reserve or United States Marine Corps Reserve, or other
15 organization affiliated therewith, including the National Guard of other
16 states, shall be entitled, in addition to pay received, if any, as a
17 member of a reserve component of the Armed Forces of the United
18 States, to leave of absence from his or her respective duty without loss
19 of pay or time on all work days on which he or she shall be engaged
20 in [field training] ¹[mandatory]any period of¹ Federal active duty
21 ¹[or mandatory active duty for training]¹, provided, however, that
22 such leaves of absence shall not exceed 30 work days in any calendar
23 year. ¹[All Federal active duty and active duty for training shall be
24 deemed mandatory unless otherwise specified on the member's
25 orders.]¹ Such leave of absence shall be in addition to the regular
26 vacation or other accrued leave allowed such officer or employee. Any
27 leave of absence for such duty in excess of 30 work days shall be
28 without pay but without loss of time.

29 b. Notwithstanding subsection a. of this section, a full-time
30 temporary officer or employee who has served under such temporary
31 appointment for less than one year shall receive for the service
32 hereinabove described leave without pay but without loss of time.

33 (cf: P.L.1953, c.351, s.1)

34

35 2. N.J.S.38A:1-1 is amended to read as follows:

36 38A:1-1. The following definitions apply to this Title:

37 (a) "Militia" means all the military forces of this State, whether
38 organized, or active or inactive.

39 (b) "National Guard" means the Army National Guard and the Air
40 National Guard.

41 (c) "Army National Guard" means that part of the organized militia

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSV committee amendments adopted September 6, 2001.

1 that is a land force, is trained and has its officers appointed under the
2 16th clause of section 8, Article I of the Constitution of the United
3 States, is organized, armed and equipped wholly or partly at Federal
4 expense, and is Federally recognized.

5 (d) "Army National Guard of the United States" is the reserve
6 component of the Army of the United States all of whose members are
7 members of the Army National Guard.

8 (e) "Air National Guard" means that part of the organized militia
9 that is an air force, is trained and has its officers appointed under the
10 16th clause of section 8, Article I, of the Constitution of the United
11 States, is organized, armed and equipped wholly or partly at Federal
12 expense, and is Federally recognized.

13 (f) "Air National Guard of the United States" means the reserve
14 component of the Air Force of the United States all of whose members
15 are members of the Air National Guard.

16 (g) "Armed forces" means the land, air and sea forces established
17 by State or Federal laws, as applicable.

18 (h) "Military" means any part of or all of the armed forces.

19 (i) "Active duty" means ¹[full-time]¹ duty in the active military
20 service ¹[, other than active duty for training]¹. [State service is
21 meant unless Federal service is specified.]

22 (j) "Active duty for training" means ¹[full-time]¹ duty in the active
23 military service for training purposes. [State service is meant unless
24 Federal service is specified.]

25 (k) "Inactive duty training" means duty performed by a member of
26 the organized militia other than active duty or active duty for training.

27 (l) "Officer" means commissioned officer or warrant officer.

28 (m) "Grade" means a step or degree, in a graduated field of office
29 or military rank, that is established and designated as a grade by law
30 or regulation.

31 (n) "Rank" means the order of precedence among members of the
32 armed forces.

33 (o) "Permanent duty status" means full-time employment of a
34 member of the organized militia ordered to active duty by the
35 Governor to serve in the Department of Military and Veterans' Affairs.

36 (p) "Shall" is used in an imperative sense.

37 (q) "Will" is used in a permissive sense.

38 (r) "Regulations" means the rules and regulations on the governing
39 and training of the militia.

40 (s) "Federal service" means duty in the active service of the United
41 States.

42 (t) "Armory" means any building or training installation utilized by
43 the organized militia.

44 (cf: P.L.1988, c.138, s.1)

1 3. N.J.S.38A:4-4 is amended to read as follows:

2 ¹[N.J.S.]¹38A:4-4. [(a) All officials and employees] ¹a.¹ A
3 permanent or full-time temporary officer or employee of [this] the
4 State or of [any] a board [or], commission, authority or other
5 instrumentality of the State or of [any] a county, school district or
6 municipality who [are members] is a member of the organized militia
7 shall be entitled, in addition to pay received, if any, as a member of the
8 organized militia, to leave of absence from [their] his or her
9 respective duties without loss of pay or time on all days during which
10 [they] he or she shall be engaged in ¹[mandatory] any period of¹
11 State or Federal active duty[,] ¹[or mandatory active duty for
12 training]¹ [or other duty ordered by the Governor]; provided,
13 however, that the ¹[such]¹ leaves of absence for Federal active duty
14 or active duty for training shall not exceed 90 work days in the
15 aggregate in any [one] calendar year. Any leave of absence for such
16 duty in excess of 90 work days shall be without pay but without loss
17 of time.

18 [(b)] b. Leave of absence for such military duty shall be in addition
19 to the regular vacation or other accrued leave allowed such officers
20 and employees by the State, county or municipal law, ordinance,
21 resolution, or regulation.

22 c. Notwithstanding subsection a. of this section, a full-time
23 temporary officer or employee who has served under such temporary
24 appointment for less than one year shall receive for the service
25 hereinabove described leave without pay but without loss of time.

26 ¹[d. State or Federal active duty and active duty for training shall
27 be deemed mandatory unless otherwise specified on the member's
28 orders.]¹

29 (cf: N.J.S.38A:4-4)

30

31 ¹4. (New section) In accordance with the provisions of Article
32 VIII, Section II, paragraph 5 of the New Jersey Constitution, upon
33 application for reimbursement by a county or municipal governing
34 body or a board of education to the State Treasurer for reimbursement
35 and approval of the application by the Director of the Division of
36 Budget and Accounting, reimbursement shall be made by the State for
37 any costs incurred as a result of the provisions of P.L. , c. (pending
38 before the Legislature as this bill).¹

39

40 ¹[4.] 5.¹ P.L.1953, c.350 (C.38:23-1.1 et seq.) is repealed.

41

42 ¹[5.] 6.¹ This act shall take effect immediately.

FISCAL NOTE
[First Reprint]
SENATE, No. 2378
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: OCTOBER 31, 2001

SUMMARY

Synopsis: Clarifies military leave benefits for public officers and employees.
Type of Impact: Expenditure increase; General Fund.
Agencies Affected: All State departments and agencies.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	None	None	None

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate

- ! The Office of Legislative Services (OLS) **does not concur** with the Executive estimate.
- ! The bill expands the scope of service for which public employees would be paid to include any active military service.
- ! OLS does not have sufficient information to provide an estimate of these additional costs.

BILL DESCRIPTION

Senate Bill No. 2378 (1R) of 2001 clarifies the paid military leave law for State officers and employees whom are members of the State militia and the reserve components of the Armed Forces of the United States. The bill specifies that military leaves of absence with pay are required for any period of State and federal active duty.

The bill establishes a limit of 30 work days with pay per calendar year on military leave for federal active duty to members of a reserved component of the Armed Forces of the United

States. Members of the reserve were not previously entitled to military leave for active duty. Any leave of absence for such duty in excess of 30 work days would be without pay but also without loss of time.

The bill clarifies that members of the State militia, which consists of the New Jersey Air and Army National Guard, Naval Militia, and State Guard, are limited to 90 work days with pay for military leave per calendar year for active duty. Any leave of absence for such duty in excess of 90 work days will be without pay but without loss of time.

The bill provides that any costs incurred as a result of the provisions of this bill would be reimbursed by the State upon application for reimbursement by a county, municipal governing body, or board of education.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Military and Veterans Affairs estimates that there is no additional cost under to the provisions of this bill. At present, State employees who are members of the reserves are eligible for up to 30 days of pay in which they are engaged in field training. Members of the reserve are not entitled to military leave with pay for active duty. The term “active duty” means full-time duty in the active military service, other than active duty for training.

These same benefits are also provided to State employees who reside in another state and are members of that state’s National Guard. This acknowledges that the National Guard of another state is a reserve component of the Armed Forces of the United States.

Current State law provides public employees who are members of the State militia (which consists of the New Jersey Air and Army National Guard, Naval Militia and State Guard) up to 90 days of paid leave for active duty or active duty for training.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) does not concur with the Executive estimate. OLS notes that this bill would expand the types of duties for which public employees who are members of a reserve component of the Armed Forces of the United States would continue to be paid. Presently, reservists are entitled to a leave of absence from their respective jobs without loss of pay or time for days in which they are engaged in field training. This bill expands the scope of service for which public employees would be paid to include any active military service. The bill also permits counties, municipalities and boards of education to apply to the State Treasurer for reimbursement of funds expended as a result of the provisions of this bill.

OLS does not have sufficient information to provide an estimate of these additional costs.

Section: *Law and Public Safety*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2378

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2001

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2378 (1R).

This bill revises the law regarding paid leaves of absence for public officers and employees in the performance of certain service as a member of the organized State militia (which consists of the New Jersey Air and Army National Guard, Naval Militia, and State Guard) or reserve components of the Armed Forces of the United States. This benefit is commonly known as military leave.

Currently, an officer or employer of a State agency, county, school district, or municipality who is a member of the National Guard or other component of the organized militia of New Jersey is entitled to military leave for active duty, active duty for training and other duty as ordered by the Governor. In the case of active duty for training, the amount of such leave is limited to 90 work days per year.

Also under current law, a member of the Armed Forces reserve is entitled to military leave for "field training." In the past, field training consisted of a two-week period in the summer, but (due to the need for specialized training and use of active duty in lieu of training) has more recently involved longer training periods at various times of year.

This bill would:

- C Establish a limit of 30 work days per calendar year on military leave granted for any period of federal active duty to members of a reserve component of the Armed Forces of the United States. "Active duty" includes "active duty for training," which replaces the outdated term "field training." Members of the reserve were not previously entitled to military leave for active duty.
- C Acknowledge that the National Guard of other states is a reserve component of the Armed Forces of the United States and that, therefore, their members are entitled to military leave for federal active duty or active duty for training under N.J.S.A.38:23-1. This provision would enable a member of the National Guard of another state to receive military leave in the performance of duties as a member of a reserve component of the Armed Forces of the United States, but not in the performance of duties as a member of the militia of another state. While the New Jersey National Guard is

also a reserve component of the Armed Forces of the United States, members of the New Jersey National Guard are entitled under N.J.S.A.38A:4-4 to enhanced military leave benefits because the New Jersey National Guard has vital State responsibilities in addition to its federal responsibilities.

- C Specify that military leaves of absence with pay are required for any period of State and federal active duty, up to 30 work days per calendar year, in the case of a member of the organized reserve of the U.S. Armed Forces or other organization affiliated therewith, including the National Guard of other states, or 90 work days per calendar year in the case of a member of the organized State militia.
- C Specify that paid military leave is in addition to whatever pay the member receives, if any, from a component of the organized militia of New Jersey or a reserve component of the U.S. Armed Forces.
- C Clarify that in any calendar year, military leave in excess of the allowable number of work days will be without pay but without loss of time.
- C Clarify that military leave for members of the organized militia of New Jersey is for "State and federal active duty."
- C Update the definition of "active duty" and "active duty for training" to eliminate the presumption that such duty refers to State duty unless federal duty is specified; delete the references to "full-time" in these definitions; and delete language that excluded "active duty for training" from being considered "active duty."
- C Stipulate that any costs incurred as a result of the provisions of this bill shall be reimbursed by the State upon application for reimbursement by a local employer to the State Treasurer and approval of the application by the Director of the Division of Budget and Accounting.

This bill repeals a 1953 law governing military leave for public employees holding temporary or interim appointment; the rules for these employees are incorporated under this bill with provisions for permanent employees.

FISCAL IMPACT

The Department of Military and Veterans Affairs (DMVA) estimates that there is no additional cost under to the provisions of this bill. The department notes that at present, State employees who are members of the reserves are eligible for up to 30 days of pay in which they are engaged in field training. Members of the reserve are not entitled to military leave with pay for active duty. The term "active duty" means full-time duty in the active military service, other than active duty for training. The same benefits are also provided to State employees who reside in another state and are members of that state's National Guard. With respect to members of the State militia, current State law provides public employees in the militia are allowed up to 90 days of paid leave for active duty or active duty for training.

The Office of Legislative Services (OLS) does not concur with the Executive estimate. OLS notes that this bill would expand the types of duties for which public employees who are members of a reserve component of the Armed Forces of the United States would continue to be paid. Presently, reservists are entitled to a leave of absence from their respective jobs without loss of pay or time for days in which they are engaged in field training. This bill expands the scope of service for which public employees would be paid to include any active military service. The bill also permits counties, municipalities and boards of education to apply to the State Treasurer for reimbursement of funds expended as a result of the provisions of this bill.

OLS does not have sufficient information to provide an estimate of these additional costs.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2378

STATE OF NEW JERSEY

DATED: DECEMBER 20, 2001

The Assembly Appropriations Committee reports favorably Senate Bill No. 2378 (1R).

Senate Bill No. 2378 (1R) revises the law regarding paid leaves of absence for public officers and employees in the performance of certain service as a member of the organized State militia (which consists of the New Jersey Air and Army National Guard, Naval Militia, and State Guard) or reserve components of the Armed Forces of the United States. This benefit is commonly known as military leave.

Currently, an officer or employer of a State agency, county, school district, or municipality who is a member of the National Guard or other component of the organized militia of New Jersey is entitled to military leave for active duty, active duty for training and other duty as ordered by the Governor. In the case of active duty for training, the amount of such leave is limited to 90 work days per year.

Also under current law, a member of the Armed Forces reserve is entitled to military leave for "field training." In the past, field training consisted of a two-week period in the summer, but (due to the need for specialized training and use of active duty in lieu of training) has more recently involved longer training periods at various times of year.

This bill:

- C Establishes a limit of 30 work days per calendar year on military leave granted for any period of federal active duty to members of a reserve component of the Armed Forces of the United States. "Active duty" includes "active duty for training," which replaces the outdated term "field training." Members of the reserve were not previously entitled to military leave for active duty.
- C Acknowledges that the National Guard of other states is a reserve component of the Armed Forces of the United States and that, therefore, their members are entitled to military leave for federal active duty or active duty for training under N.J.S.A.38:23-1. This provision enables a member of the National Guard of another state to receive military leave in the performance of duties as a member of a reserve component of the Armed Forces of the United States, but not in the performance of duties as a member of the militia of

another state. While the New Jersey National Guard is also a reserve component of the Armed Forces of the United States, members of the New Jersey National Guard are entitled under N.J.S.A.38A:4-4 to enhanced military leave benefits because the New Jersey National Guard has vital State responsibilities in addition to its federal responsibilities.

- C Specifies that military leaves of absence with pay are required for any period of State and federal active duty, up to 30 work days per calendar year, in the case of a member of the organized reserve of the U.S. Armed Forces or other organization affiliated therewith, including the National Guard of other states, or 90 work days per calendar year in the case of a member of the organized State militia.
- C Specifies that paid military leave is in addition to whatever pay the member receives, if any, from a component of the organized militia of New Jersey or a reserve component of the U.S. Armed Forces.
- C Clarifies that in any calendar year, military leave in excess of the allowable number of work days will be without pay but without loss of time.
- C Clarifies that military leave for members of the organized militia of New Jersey is for "State and federal active duty."
- C Updates the definition of "active duty" and "active duty for training" to eliminate the presumption that such duty refers to State duty unless federal duty is specified; deletes the references to "full-time" in these definitions; and deletes language that excluded "active duty for training" from being considered "active duty."
- C Stipulates that any costs incurred as a result of the provisions of this bill shall be reimbursed by the State upon application for reimbursement by a local employer to the State Treasurer and approval of the application by the Director of the Division of Budget and Accounting.

This bill repeals a 1953 law governing military leave for public employees holding temporary or interim appointment; the rules for these employees are incorporated under this bill with provisions for permanent employees.

As reported by the committee, this bill is identical to Assembly Bill No. 3386 (1R) , as amended and reported by the committee.

FISCAL IMPACT

The Department of Military and Veterans Affairs estimates that there is no additional cost under to the provisions of this bill. The department notes that at present, State employees who are members of the reserves are eligible for up to 30 days of pay in which they are engaged in field training. Members of the reserve are not entitled to military leave with pay for active duty. The term "active duty" means full-time duty in the active military service, other than active duty for training. The same benefits are also provided to State employees who reside in another state and are members of that state's National Guard.

With respect to members of the State militia, current State law provides public employees in the militia are allowed up to 90 days of paid leave for active duty or active duty for training.

The Office of Legislative Services (OLS) does not concur with the Executive estimate. OLS notes that this bill would expand the types of duties for which public employees who are members of a reserve component of the Armed Forces of the United States would continue to be paid. Presently, reservists are entitled to a leave of absence from their respective jobs without loss of pay or time for days in which they are engaged in field training. This bill expands the scope of service for which public employees would be paid to include any active military service. The bill also permits counties, municipalities and boards of education to apply to the State Treasurer for reimbursement of funds expended as a result of the provisions of this bill.

OLS does not have sufficient information to provide an estimate of these additional costs.

ASSEMBLY, No. 3386

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 29, 2001

Sponsored by:

Assemblyman JOSEPH AZZOLINA

District 13 (Middlesex and Monmouth)

Assemblyman NICHOLAS ASSELTA

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Assemblyman Connors

SYNOPSIS

Clarifies military leave benefits for public officers and employees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/11/2001)

A3386 AZZOLINA, ASSELTA

2

1 AN ACT concerning military leave for public officers and employees,
2 amending R.S.38:23-1, N.J.S.38A:1-1 and N.J.S.38A:4-4 and
3 repealing P.L.1953, c.350 (C.38:23-1 et seq.).

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. R.S.38:23-1 is amended to read as follows:

9 R.S.38:23-1. **[An]** a. A permanent or full-time temporary officer
10 or employee of the State or of a board, commission, authority or other
11 instrumentality of the State, or of a county, school district or
12 municipality, who is a member of the organized reserve of the Army
13 of the United States, United States Naval Reserve, United States Air
14 Force Reserve or United States Marine Corps Reserve, or other
15 organization affiliated therewith, including the National Guard of other
16 states, shall be entitled, in addition to pay received as a member of a
17 reserve component of the Armed Forces of the United States, to leave
18 of absence from his or her respective duty without loss of pay or time
19 on all work days on which he or she shall be engaged in [field
20 training] mandatory Federal active duty or mandatory active duty for
21 training, provided, however, that such leaves of absence shall not
22 exceed 30 work days in any calendar year. All Federal active duty and
23 active duty for training shall be deemed mandatory unless otherwise
24 specified on the member's orders. Such leave of absence shall be in
25 addition to the regular vacation or other accrued leave allowed such
26 officer or employee. Any leave of absence for such duty in excess of
27 30 work days shall be without pay but without loss of time.

28 b. Notwithstanding subsection a. of this section, a full-time
29 temporary officer or employee who has served under such temporary
30 appointment for less than one year shall receive for the service
31 hereinabove described leave without pay but without loss of time.

32 (cf: P.L.1953, c.351, s. 1)

33

34 2. N.J.S.38A:1-1 is amended to read as follows:

35 38A:1-1. The following definitions apply to this Title:

36 (a) "Militia" means all the military forces of this State, whether
37 organized, or active or inactive.

38 (b) "National Guard" means the Army National Guard and the Air
39 National Guard.

40 (c) "Army National Guard" means that part of the organized militia
41 that is a land force, is trained and has its officers appointed under the
42 16th clause of section 8, Article I of the Constitution of the United
43 States, is organized, armed and equipped wholly or partly at Federal

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 expense, and is Federally recognized.

2 (d) "Army National Guard of the United States" is the reserve
3 component of the Army of the United States all of whose members are
4 members of the Army National Guard.

5 (e) "Air National Guard" means that part of the organized militia
6 that is an air force, is trained and has its officers appointed under the
7 16th clause of section 8, Article I, of the Constitution of the United
8 States, is organized, armed and equipped wholly or partly at Federal
9 expense, and is Federally recognized.

10 (f) "Air National Guard of the United States" means the reserve
11 component of the Air Force of the United States all of whose members
12 are members of the Air National Guard.

13 (g) "Armed forces" means the land, air and sea forces established
14 by State or Federal laws, as applicable.

15 (h) "Military" means any part of or all of the armed forces.

16 (i) "Active duty" means full-time duty in the active military service,
17 other than active duty for training. State service is meant unless
18 Federal service is specified.

19 (j) "Active duty for training" means full-time duty in the active
20 military service for training purposes. [State service is meant unless
21 Federal service is specified.]

22 (k) "Inactive duty training" means duty performed by a member of
23 the organized militia other than active duty or active duty for training.

24 (l) "Officer" means commissioned officer or warrant officer.

25 (m) "Grade" means a step or degree, in a graduated field of office
26 or military rank, that is established and designated as a grade by law
27 or regulation.

28 (n) "Rank" means the order of precedence among members of the
29 armed forces.

30 (o) "Permanent duty status" means full-time employment of a
31 member of the organized militia ordered to active duty by the
32 Governor to serve in the Department of Military and Veterans' Affairs.

33 (p) "Shall" is used in an imperative sense.

34 (q) "Will" is used in a permissive sense.

35 (r) "Regulations" means the rules and regulations on the governing
36 and training of the militia.

37 (s) "Federal service" means duty in the active service of the United
38 States.

39 (t) "Armory" means any building or training installation utilized by
40 the organized militia.

41 (cf: P.L.1988, c.138, s.1)

42

43 3. N.J.S.38A:4-4 is amended to read as follows:

44 N.J.S.38A:4-4. [(a) All officials and employees] A permanent or
45 full-time temporary officer or employee of [this] the State or of [any]
46 a board [or] , commission, authority or other instrumentality of the

1 State or of ~~[any]~~ a county, school district or municipality who ~~[are~~
2 ~~members]~~ is a member of the organized militia shall be entitled, in
3 addition to pay received as a member of the organized militia, to leave
4 of absence from ~~[their]~~ his or her respective duties without loss of pay
5 or time on all days during which ~~[they]~~ he or she shall be engaged in
6 mandatory State or Federal active duty[,] or mandatory active duty
7 for training [or other duty ordered by the Governor]; provided,
8 however, that the such leaves of absence for Federal active duty or
9 active duty for training shall not exceed 90 work days in the aggregate
10 in any ~~[one]~~ calendar year. Any leave of absence for such duty in
11 excess of 90 work days shall be without pay but without loss of time.

12 ~~[(b)]~~ b. Leave of absence for such military duty shall be in addition
13 to the regular vacation or other accrued leave allowed such officers
14 and employees by the State, county or municipal law, ordinance,
15 resolution, or regulation.

16 c. Notwithstanding subsection a. of this section, a full-time
17 temporary officer or employee who has served under such temporary
18 appointment for less than one year shall receive for the service
19 hereinabove described leave without pay but without loss of time.

20 d. State or Federal active duty and active duty for training shall be
21 deemed mandatory unless otherwise specified on the member's orders.

22 (cf: N.J.S.38A:4-4)

23

24 4. P.L.1953, c.350 (C.38:23-1.1 et seq.) is repealed.

25

26 5. This act shall take effect immediately.

27

28

29

STATEMENT

30

31 The purpose of this bill is to clarify the law regarding paid leaves of
32 absence to public officers and employees in the performance of certain
33 service in the organized State militia (which consists of the New Jersey
34 Air and Army National Guard, Naval Militia, and State Guard) or
35 reserve components of the Armed Forces of the United States. This
36 benefit is commonly known as military leave.

37 Currently, pursuant to N.J.S.38A:4-4, a member of the National
38 Guard or other component of the organized militia of New Jersey is
39 entitled to military leave for active duty, active duty for training, and
40 other duty as ordered by the Governor. A member of the organized
41 militia of this State is limited to 90 work days of military leave per
42 calendar year for active duty, active duty for training and other duty
43 ordered by the Governor.

44 Currently, pursuant to R.S.38:23-1, a member of the reserve is
45 entitled to military leave for "field training". Field training
46 traditionally had consisted of a 2-week period in the summer, but

1 which due to the need for specialized training and use of active duty
2 in lieu of training has more recently necessitated longer periods of
3 training at different times of the year.

4 In addition to making various technical changes, the provisions of
5 the bill:

6
7 C establish a limit of 30 work days per calendar year on military leave
8 granted for Federal active duty and active duty for training to
9 members of a reserve component of the Armed Forces of the
10 United States. "Active duty for training" replaces the outdated
11 term "field training". Members of the reserve were not previously
12 entitled to military leave for active duty.

13
14 C acknowledge that the National Guard of other states is a reserve
15 component of the Armed Forces of the United States and that
16 therefore their members are entitled to military leave for Federal
17 active duty or active duty for training under R.S.38:23-1. The
18 purpose of this provision is for a member of the National Guard of
19 another state to receive military leave in the performance of duties
20 as a member of a reserve component of the Armed Forces of the
21 United States, but not in the performance of duties as a member of
22 the militia of another state. While the New Jersey National Guard
23 is also a reserve component of the Armed Forces of the United
24 States, members of the New Jersey National Guard are entitled
25 under N.J.S.38A:4-4 to enhanced military leave benefits because
26 the New Jersey National Guard has vital State responsibilities in
27 addition to its Federal responsibilities. The greater military leave
28 benefit for members of the New Jersey National Guard and other
29 components of the organized militia of the State also serves as a
30 valuable recruitment incentive.

31
32 C specify that all State and Federal active duty and active duty for
33 training will be deemed to be mandatory unless otherwise stated on
34 the member's orders. This specification addresses the results of the
35 court's ruling in Hill v. Camden, 190 N.J. Super. 418 (App. Div.
36 1983). In that ruling, the court determined that a member of the
37 National Guard is not entitled to military leave for voluntary
38 training. This ruling has resulted in some public employers having
39 taken the position that the employer has discretion to decide which
40 training is voluntary and which is mandatory, causing confusion and
41 inconsistent application of the law. The purpose of this particular
42 provision is to clarify that the decision as to whether or not a
43 particular order is mandatory belongs to the military. However, it
44 is the intent of this bill that the military will work to ensure that any
45 military leave does not unnecessarily or unduly burden public
46 employers in this State.

- 1
- 2 C specify that paid military leave is in addition to whatever pay the
3 member receives from a component of the organized militia of New
4 Jersey or a reserve component of the Armed Forces of the United
5 States.
- 6
- 7 C combine separate provisions regarding military leave for temporary
8 and permanent public officers and employees in the reserve, and
9 repeal the resultant superfluous section. A second section,
10 superfluous for having been previously incorporated into another
11 section, is also repealed.
- 12
- 13 C clarify that in any calendar year, military leave in excess of the
14 allowable number of work days will be without pay but without loss
15 of time.
- 16
- 17 C clarify that military leave for members of the organized militia of
18 New Jersey is for "State and Federal active duty and active duty for
19 training". The bill eliminates a redundant reference to military leave
20 for "other duty ordered by the Governor". It is redundant because
21 such other duty is State active duty.
- 22
- 23 C updates the definition of "active duty for training" to eliminate the
24 presumption that such duty refers to State duty unless Federal duty
25 is specified.

ASSEMBLY COMMERCE, TOURISM, GAMING AND
MILITARY AND VETERANS' AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3386

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 3, 2001

The Assembly Commerce, Tourism, Gaming and Military and Veterans' Affairs Committee reports favorably and with committee amendments Assembly, No. 3386.

As amended by the committee, the purpose of this bill is to clarify and update the law regarding paid leaves of absence to public officers and employees in the performance of certain service in the organized State militia (which consists of the New Jersey Air and Army National Guard, Naval Militia, and State Guard) or reserve components of the Armed Forces of the United States. This benefit is commonly known as military leave.

Currently, pursuant to N.J.S.38A:4-4, a member of the National Guard or other component of the organized militia of New Jersey is entitled to military leave for active duty, active duty for training, and other duty as ordered by the Governor. A member of the organized militia of this State is limited to 90 work days of military leave per calendar year for active duty, active duty for training and other duty ordered by the Governor.

Currently, pursuant to R.S.38:23-1, a member of the reserve is entitled to military leave for "field training". Field training traditionally had consisted of a 2-week period in the summer, but which due to the need for specialized training and use of active duty in lieu of training has more recently necessitated longer periods of training at different times of the year.

In addition to making various technical changes, the provisions of the bill:

- C establish a limit of 30 work days per calendar year on military leave granted for Federal active duty and active duty for training to members of a reserve component of the Armed Forces of the United States. "Active duty for training" replaces the outdated term "field training". Members of the reserve were not previously entitled to military leave for active duty.

- C acknowledge that the National Guard of other states is a reserve component of the Armed Forces of the United States and that therefore their members are entitled to military leave for Federal active duty or active duty for training under R.S.38:23-1. The purpose of this provision is for a member of the National Guard of another state to receive military leave in the performance of duties as a member of a reserve component of the Armed Forces of the United States, but not in the performance of duties as a member of the militia of another state. While the New Jersey National Guard is also a reserve component of the Armed Forces of the United States, members of the New Jersey National Guard are entitled under N.J.S.38A:4-4 to enhanced military leave benefits because the New Jersey National Guard has vital State responsibilities in addition to its Federal responsibilities. The greater military leave benefit for members of the New Jersey National Guard and other components of the organized militia of the State also serves as a valuable recruitment incentive.

- C specify that all State and Federal active duty and active duty for training will be deemed to be mandatory unless otherwise stated on the member's orders. This specification addresses the results of the court's ruling in Hill v. Camden, 190 N.J. Super. 418 (App. Div. 1983). In that ruling, the court determined that a member of the National Guard is not entitled to military leave for voluntary training. This ruling has resulted in some public employers having taken the position that the employer has discretion to decide which training is voluntary and which is mandatory, causing confusion and inconsistent application of the law. The purpose of this particular provision is to clarify that the decision as to whether or not a particular order is mandatory belongs to the military. However, it is the intent of this bill that the military will work to ensure that any military leave does not unnecessarily burden public employers in this State.

- C specify that paid military leave is in addition to whatever pay the member receives, if any, from a component of the organized militia of New Jersey or a reserve component of the Armed Forces of the United States.

- C combine separate provisions regarding military leave for temporary and permanent public officers and employees in the reserve, and repeal the resultant superfluous sections originally enacted as P.L.1953, c.350 (C.38:23-1.1 and C.38:23-1.2).

- C clarify that in any calendar year, military leave in excess of the allowable number of work days will be without pay but without loss of time.

- C clarify that military leave for members of the organized militia of New Jersey is for "State and Federal active duty and active duty for training". The bill eliminates a redundant reference to military leave for "other duty ordered by the Governor". It is redundant because such other duty is State active duty.
- C updates the definition of "active duty" and "active duty for training" to eliminate the presumption that such duty refers to State duty unless Federal duty is specified.

The committee adopted technical amendments to insert in two locations the phrase "if any" after the phrase "in addition to pay received", and to update the definition of "active duty" to eliminate the presumption that such duty refers to State duty unless Federal duty is specified.

[First Reprint]

ASSEMBLY, No. 3386

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 29, 2001

Sponsored by:

Assemblyman JOSEPH AZZOLINA

District 13 (Middlesex and Monmouth)

Assemblyman NICHOLAS ASSELTA

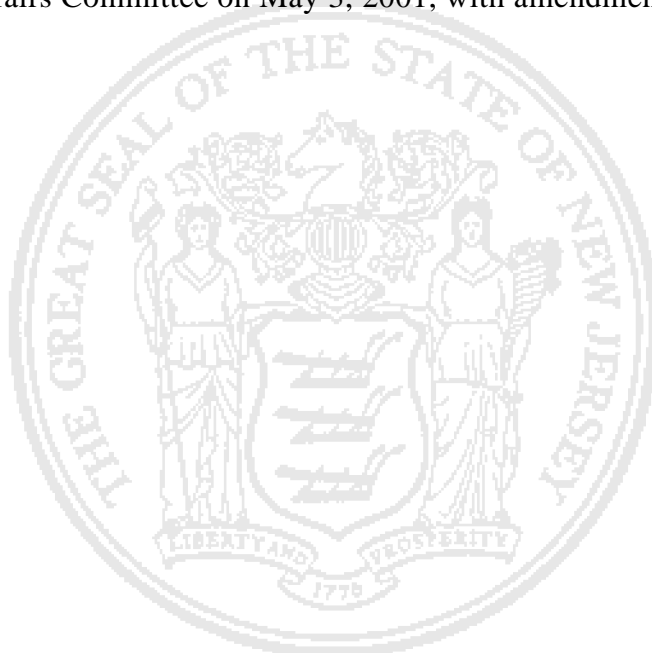
District 1 (Cape May, Atlantic and Cumberland)

SYNOPSIS

Clarifies military leave benefits for public officers and employees.

CURRENT VERSION OF TEXT

As reported by the Assembly Commerce, Tourism, Gaming and Military and Veterans' Affairs Committee on May 3, 2001, with amendments.



1 AN ACT concerning military leave for public officers and employees,
2 amending R.S.38:23-1, N.J.S.38A:1-1 and N.J.S.38A:4-4 and
3 repealing P.L.1953, c.350 (C.38:23-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.38:23-1 is amended to read as follows:

9 R.S.38:23-1. **[An]** a. A permanent or full-time temporary officer
10 or employee of the State or of a board, commission, authority or other
11 instrumentality of the State, or of a county, school district or
12 municipality, who is a member of the organized reserve of the Army
13 of the United States, United States Naval Reserve, United States Air
14 Force Reserve or United States Marine Corps Reserve, or other
15 organization affiliated therewith, including the National Guard of other
16 states, shall be entitled, in addition to pay received ¹, if any, ¹ as a
17 member of a reserve component of the Armed Forces of the United
18 States, to leave of absence from his or her respective duty without loss
19 of pay or time on all work days on which he or she shall be engaged
20 in [field training] mandatory Federal active duty or mandatory active
21 duty for training, provided, however, that such leaves of absence shall
22 not exceed 30 work days in any calendar year. All Federal active duty
23 and active duty for training shall be deemed mandatory unless
24 otherwise specified on the member's orders. Such leave of absence
25 shall be in addition to the regular vacation or other accrued leave
26 allowed such officer or employee. Any leave of absence for such duty
27 in excess of 30 work days shall be without pay but without loss of
28 time.

29 b. Notwithstanding subsection a. of this section, a full-time
30 temporary officer or employee who has served under such temporary
31 appointment for less than one year shall receive for the service
32 hereinabove described leave without pay but without loss of time.

33 (cf: P.L.1953, c.351, s. 1)
34

35 2. N.J.S.38A:1-1 is amended to read as follows:

36 38A:1-1. The following definitions apply to this Title:

37 (a) "Militia" means all the military forces of this State, whether
38 organized, or active or inactive.

39 (b) "National Guard" means the Army National Guard and the Air
40 National Guard.

41 (c) "Army National Guard" means that part of the organized militia

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACT committee amendments adopted May 3, 2001.

1 that is a land force, is trained and has its officers appointed under the
2 16th clause of section 8, Article I of the Constitution of the United
3 States, is organized, armed and equipped wholly or partly at Federal
4 expense, and is Federally recognized.

5 (d) "Army National Guard of the United States" is the reserve
6 component of the Army of the United States all of whose members are
7 members of the Army National Guard.

8 (e) "Air National Guard" means that part of the organized militia
9 that is an air force, is trained and has its officers appointed under the
10 16th clause of section 8, Article I, of the Constitution of the United
11 States, is organized, armed and equipped wholly or partly at Federal
12 expense, and is Federally recognized.

13 (f) "Air National Guard of the United States" means the reserve
14 component of the Air Force of the United States all of whose members
15 are members of the Air National Guard.

16 (g) "Armed forces" means the land, air and sea forces established
17 by State or Federal laws, as applicable.

18 (h) "Military" means any part of or all of the armed forces.

19 (i) "Active duty" means full-time duty in the active military service,
20 other than active duty for training. ¹[State service is meant unless
21 Federal service is specified.]¹

22 (j) "Active duty for training" means full-time duty in the active
23 military service for training purposes. [State service is meant unless
24 Federal service is specified.]

25 (k) "Inactive duty training" means duty performed by a member of
26 the organized militia other than active duty or active duty for training.

27 (l) "Officer" means commissioned officer or warrant officer.

28 (m) "Grade" means a step or degree, in a graduated field of office
29 or military rank, that is established and designated as a grade by law
30 or regulation.

31 (n) "Rank" means the order of precedence among members of the
32 armed forces.

33 (o) "Permanent duty status" means full-time employment of a
34 member of the organized militia ordered to active duty by the
35 Governor to serve in the Department of Military and Veterans' Affairs.

36 (p) "Shall" is used in an imperative sense.

37 (q) "Will" is used in a permissive sense.

38 (r) "Regulations" means the rules and regulations on the governing
39 and training of the militia.

40 (s) "Federal service" means duty in the active service of the United
41 States.

42 (t) "Armory" means any building or training installation utilized by
43 the organized militia.

44 (cf: P.L.1988, c.138, s.1)

1 3. N.J.S.38A:4-4 is amended to read as follows:

2 N.J.S.38A:4-4. [(a) All officials and employees] A permanent or
3 full-time temporary officer or employee of [this] the State or of [any]
4 a board [or] , commission, authority or other instrumentality of the
5 State or of [any] a county, school district or municipality who [are
6 members] is a member of the organized militia shall be entitled, in
7 addition to pay received ¹, if any, ¹ as a member of the organized
8 militia, to leave of absence from [their] his or her respective duties
9 without loss of pay or time on all days during which [they] he or she
10 shall be engaged in mandatory State or Federal active duty[,] or
11 mandatory active duty for training [or other duty ordered by the
12 Governor]; provided, however, that the such leaves of absence for
13 Federal active duty or active duty for training shall not exceed 90
14 work days in the aggregate in any [one] calendar year. Any leave of
15 absence for such duty in excess of 90 work days shall be without pay
16 but without loss of time.

17 [(b)] b. Leave of absence for such military duty shall be in addition
18 to the regular vacation or other accrued leave allowed such officers
19 and employees by the State, county or municipal law, ordinance,
20 resolution, or regulation.

21 c. Notwithstanding subsection a. of this section, a full-time
22 temporary officer or employee who has served under such temporary
23 appointment for less than one year shall receive for the service
24 hereinabove described leave without pay but without loss of time.

25 d. State or Federal active duty and active duty for training shall be
26 deemed mandatory unless otherwise specified on the member's orders.

27 (cf: N.J.S.38A:4-4)

28

29 4. P.L.1953, c.350 (C.38:23-1.1 et seq.) is repealed.

30

31 5. This act shall take effect immediately.

FISCAL NOTE
 [First Reprint]
ASSEMBLY, No. 3386
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: OCTOBER 31, 2001

SUMMARY

Synopsis: Clarifies military leave benefits for public officers and employees.
Type of Impact: Expenditure increase; General Fund.
Agencies Affected: All State departments and agencies.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	None	None	None

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate

- ! The Office of Legislative Services (OLS) **does not concur** with the Executive estimate.
- ! The bill expands the scope of service for which public employees would be paid to include any active military service.
- ! OLS does not have sufficient information to provide an estimate of these additional costs.

BILL DESCRIPTION

Assembly Bill No. 3386 (1R) of 2001 clarifies the paid military leave law for State officers and employees whom are members of the State militia and the reserve components of the Armed Forces of the United States. The bill specifies that military leaves of absence with pay are required for any period of State and federal active duty.

The bill establishes a limit of 30 work days with pay per calendar year on military leave for federal active duty to members of a reserved component of the Armed Forces of the United States. Members of the reserve were not previously entitled to military leave for active duty. Any leave of absence for such duty in excess of 30 work days would be without pay but also without loss of time.

The bill clarifies that members of the State militia, which consists of the New Jersey Air and Army National Guard, Naval Militia, and State Guard, are limited to 90 work days with pay for military leave per calendar year for active duty. Any leave of absence of such duty in excess of 90 work days will be without pay but without loss of time.

The bill provides that any costs incurred as a result of the provisions of this bill would be reimbursed by the State upon application for reimbursement by a county, municipal governing body, or board of education.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Department of Military and Veterans Affairs estimates that there is no additional cost under the provisions of this bill. At present, State employees who are members of the reserves are eligible for up to 30 days of pay in which they are engaged in field training. Members of the reserve are not entitled to military leave with pay for active duty. The term “active duty” means full-time duty in the active military service, other than active duty for training.

These same benefits are also provided to State employees who reside in another state and are members of that state’s National Guard. This acknowledges that the National Guard of another state is a reserve component of the Armed Forces of the United States.

Current State law provides public employees who are members of the State militia (which consists of the New Jersey Air and Army National Guard, Naval Militia and State Guard) up to 90 days of paid leave for active duty or active duty for training.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) does not concur with the Executive estimate. OLS notes that this bill would expand the types of duties for which public employees who are members of a reserve component of the Armed Forces of the United States would continue to be paid. Presently, reservists are entitled to a leave of absence from their respective jobs without loss of pay or time for days in which they are engaged in field training. This bill expands the scope of service for which public employees would be paid to include any active military service. The bill also permits counties, municipalities and boards of education to apply to the State Treasurer for reimbursement of funds expended as a result of the provisions of this bill.

OLS does not have sufficient information to provide an estimate of these additional costs.

Section: *Law and Public Safety*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3386

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 20, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3386 (1R) with committee amendments.

Assembly Bill No. 3386 (1R), as amended, revises the law regarding paid leaves of absence for public officers and employees in the performance of certain service as a member of the organized State militia (which consists of the New Jersey Air and Army National Guard, Naval Militia, and State Guard) or reserve components of the Armed Forces of the United States. This benefit is commonly known as military leave.

Currently, an officer or employer of a State agency, county, school district, or municipality who is a member of the National Guard or other component of the organized militia of New Jersey is entitled to military leave for active duty, active duty for training and other duty as ordered by the Governor. In the case of active duty for training, the amount of such leave is limited to 90 work days per year.

Also under current law, a member of the Armed Forces reserve is entitled to military leave for "field training." In the past, field training consisted of a two-week period in the summer, but (due to the need for specialized training and use of active duty in lieu of training) has more recently involved longer training periods at various times of year.

This bill:

- C Establishes a limit of 30 work days per calendar year on military leave granted for any period of federal active duty to members of a reserve component of the Armed Forces of the United States. "Active duty" includes "active duty for training," which replaces the outdated term "field training." Members of the reserve were not previously entitled to military leave for active duty.
- C Acknowledges that the National Guard of other states is a reserve component of the Armed Forces of the United States and that, therefore, their members are entitled to military leave for federal active duty or active duty for training under N.J.S.A.38:23-1. This provision enables a member of the National Guard of another state to receive military leave in the performance of duties as a member

of a reserve component of the Armed Forces of the United States, but not in the performance of duties as a member of the militia of another state. While the New Jersey National Guard is also a reserve component of the Armed Forces of the United States, members of the New Jersey National Guard are entitled under N.J.S.A.38A:4-4 to enhanced military leave benefits because the New Jersey National Guard has vital State responsibilities in addition to its federal responsibilities.

- C Specifies that military leaves of absence with pay are required for any period of State and federal active duty, up to 30 work days per calendar year, in the case of a member of the organized reserve of the U.S. Armed Forces or other organization affiliated therewith, including the National Guard of other states, or 90 work days per calendar year in the case of a member of the organized State militia.
- C Specifies that paid military leave is in addition to whatever pay the member receives, if any, from a component of the organized militia of New Jersey or a reserve component of the U.S. Armed Forces.
- C Clarifies that in any calendar year, military leave in excess of the allowable number of work days will be without pay but without loss of time.
- C Clarifies that military leave for members of the organized militia of New Jersey is for "State and federal active duty."
- C Updates the definition of "active duty" and "active duty for training" to eliminate the presumption that such duty refers to State duty unless federal duty is specified; deletes the references to "full-time" in these definitions; and deletes language that excluded "active duty for training" from being considered "active duty."
- C Stipulates that any costs incurred as a result of the provisions of this bill shall be reimbursed by the State upon application for reimbursement by a local employer to the State Treasurer and approval of the application by the Director of the Division of Budget and Accounting.

This bill repeals a 1953 law governing military leave for public employees holding temporary or interim appointment; the rules for these employees are incorporated under this bill with provisions for permanent employees.

As amended and reported by the committee, this bill is identical to Senate Bill No. 2378, as also reported by the committee.

FISCAL IMPACT

The Department of Military and Veterans Affairs estimates that there is no additional cost under to the provisions of this bill. The department notes that at present, State employees who are members of the reserves are eligible for up to 30 days of pay in which they are engaged in field training. Members of the reserve are not entitled to military leave with pay for active duty. The term "active duty" means full-time duty in the active military service, other than active duty for

training. The same benefits are also provided to State employees who reside in another state and are members of that state's National Guard. With respect to members of the State militia, current State law provides public employees in the militia are allowed up to 90 days of paid leave for active duty or active duty for training.

The Office of Legislative Services (OLS) does not concur with the Executive estimate. OLS notes that this bill would expand the types of duties for which public employees who are members of a reserve component of the Armed Forces of the United States would continue to be paid. Presently, reservists are entitled to a leave of absence from their respective jobs without loss of pay or time for days in which they are engaged in field training. This bill expands the scope of service for which public employees would be paid to include any active military service. The bill also permits counties, municipalities and boards of education to apply to the State Treasurer for reimbursement of funds expended as a result of the provisions of this bill.

OLS does not have sufficient information to provide an estimate of these additional costs.

COMMITTEE AMENDMENTS:

The amendments:

- Eliminate references to mandatory federal or State duty and provide that the military leave benefit is for any period of federal or State active duty;
- Delete references to "full-time" in the definitions of "active duty" and "active duty for training"
- Delete language in the definition of "active duty" that excluded "active duty for training" from being considered "active duty"; and
- Provide that any costs incurred as a result of the provisions of this bill shall be reimbursed by the State upon application for reimbursement by a county or municipal governing body or a board of education to the State Treasurer and approval of the application by the Director of the Division of Budget and Accounting.

[Second Reprint]

ASSEMBLY, No. 3386

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 29, 2001

Sponsored by:

Assemblyman JOSEPH AZZOLINA

District 13 (Middlesex and Monmouth)

Assemblyman NICHOLAS ASSELTA

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

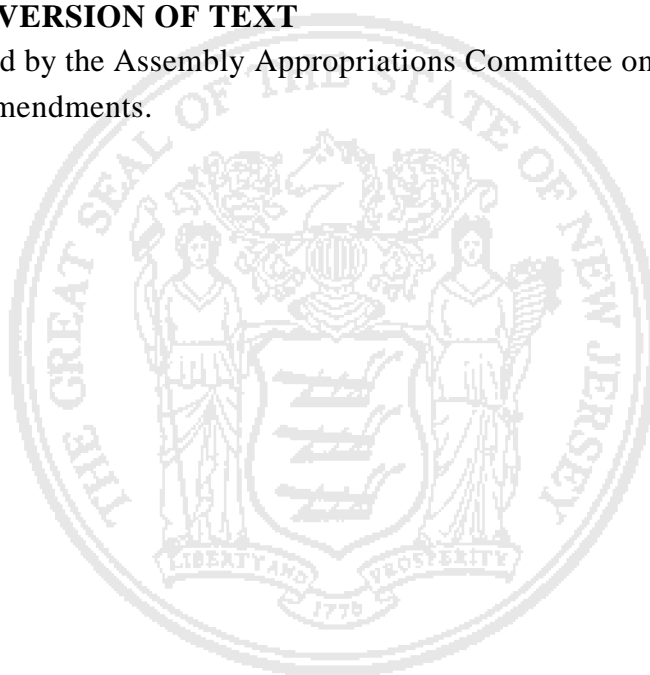
Assemblyman Connors

SYNOPSIS

Clarifies military leave benefits for public officers and employees.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 20, 2001, with amendments.



(Sponsorship Updated As Of: 5/11/2001)

1 AN ACT concerning military leave for public officers and employees,
2 amending R.S.38:23-1, N.J.S.38A:1-1 and N.J.S.38A:4-4 and
3 repealing P.L.1953, c.350 (C.38:23-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.38:23-1 is amended to read as follows:

9 R.S.38:23-1. **[An]** a. A permanent or full-time temporary officer
10 or employee of the State or of a board, commission, authority or other
11 instrumentality of the State, or of a county, school district or
12 municipality, who is a member of the organized reserve of the Army
13 of the United States, United States Naval Reserve, United States Air
14 Force Reserve or United States Marine Corps Reserve, or other
15 organization affiliated therewith, including the National Guard of other
16 states, shall be entitled, in addition to pay received ¹, if any, ¹ as a
17 member of a reserve component of the Armed Forces of the United
18 States, to leave of absence from his or her respective duty without loss
19 of pay or time on all work days on which he or she shall be engaged
20 in [field training] ²[mandatory] any period of ² Federal active duty
21 ²[or mandatory active duty for training] ², provided, however, that
22 such leaves of absence shall not exceed 30 work days in any calendar
23 year. ²[All Federal active duty and active duty for training shall be
24 deemed mandatory unless otherwise specified on the member's
25 orders.] ² Such leave of absence shall be in addition to the regular
26 vacation or other accrued leave allowed such officer or employee. Any
27 leave of absence for such duty in excess of 30 work days shall be
28 without pay but without loss of time.

29 b. Notwithstanding subsection a. of this section, a full-time
30 temporary officer or employee who has served under such temporary
31 appointment for less than one year shall receive for the service
32 hereinabove described leave without pay but without loss of time.

33 (cf: P.L.1953, c.351, s. 1)
34

35 2. N.J.S.38A:1-1 is amended to read as follows:

36 38A:1-1. The following definitions apply to this Title:

37 (a) "Militia" means all the military forces of this State, whether
38 organized, or active or inactive.

39 (b) "National Guard" means the Army National Guard and the Air
40 National Guard.

41 (c) "Army National Guard" means that part of the organized militia

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACT committee amendments adopted May 3, 2001.

² Assembly AAP committee amendments adopted December 20, 2001.

1 that is a land force, is trained and has its officers appointed under the
2 16th clause of section 8, Article I of the Constitution of the United
3 States, is organized, armed and equipped wholly or partly at Federal
4 expense, and is Federally recognized.

5 (d) "Army National Guard of the United States" is the reserve
6 component of the Army of the United States all of whose members are
7 members of the Army National Guard.

8 (e) "Air National Guard" means that part of the organized militia
9 that is an air force, is trained and has its officers appointed under the
10 16th clause of section 8, Article I, of the Constitution of the United
11 States, is organized, armed and equipped wholly or partly at Federal
12 expense, and is Federally recognized.

13 (f) "Air National Guard of the United States" means the reserve
14 component of the Air Force of the United States all of whose members
15 are members of the Air National Guard.

16 (g) "Armed forces" means the land, air and sea forces established
17 by State or Federal laws, as applicable.

18 (h) "Military" means any part of or all of the armed forces.

19 (i) "Active duty" means ²[full-time]² duty in the active military
20 service ²[, other than active duty for training]² . ¹[State service is
21 meant unless Federal service is specified.]¹

22 (j) "Active duty for training" means ²[full-time]² duty in the
23 active military service for training purposes. [State service is meant
24 unless Federal service is specified.]

25 (k) "Inactive duty training" means duty performed by a member of
26 the organized militia other than active duty or active duty for training.

27 (l) "Officer" means commissioned officer or warrant officer.

28 (m) "Grade" means a step or degree, in a graduated field of office
29 or military rank, that is established and designated as a grade by law
30 or regulation.

31 (n) "Rank" means the order of precedence among members of the
32 armed forces.

33 (o) "Permanent duty status" means full-time employment of a
34 member of the organized militia ordered to active duty by the
35 Governor to serve in the Department of Military and Veterans' Affairs.

36 (p) "Shall" is used in an imperative sense.

37 (q) "Will" is used in a permissive sense.

38 (r) "Regulations" means the rules and regulations on the governing
39 and training of the militia.

40 (s) "Federal service" means duty in the active service of the United
41 States.

42 (t) "Armory" means any building or training installation utilized by
43 the organized militia.

44 (cf: P.L.1988, c.138, s.1)

1 3. N.J.S.38A:4-4 is amended to read as follows:

2 ²[N.J.S.]² 38A:4-4. [(a) All officials and employees] ²a.² A
3 permanent or full-time temporary officer or employee of [this] the
4 State or of [any] a board [or] , commission, authority or other
5 instrumentality of the State or of [any] a county, school district or
6 municipality who [are members] is a member of the organized militia
7 shall be entitled, in addition to pay received ¹, if any,¹ as a member of
8 the organized militia, to leave of absence from [their] his or her
9 respective duties without loss of pay or time on all days during which
10 [they] he or she shall be engaged in ²[mandatory] any period of ²
11 State or Federal active duty[,] ² [or mandatory active duty for
12 training]² [or other duty ordered by the Governor]; provided,
13 however, that the ²[such]² leaves of absence for Federal active duty
14 or active duty for training shall not exceed 90 work days in the
15 aggregate in any [one] calendar year. Any leave of absence for such
16 duty in excess of 90 work days shall be without pay but without loss
17 of time.

18 [(b)] b. Leave of absence for such military duty shall be in addition
19 to the regular vacation or other accrued leave allowed such officers
20 and employees by the State, county or municipal law, ordinance,
21 resolution, or regulation.

22 c. Notwithstanding subsection a. of this section, a full-time
23 temporary officer or employee who has served under such temporary
24 appointment for less than one year shall receive for the service
25 hereinabove described leave without pay but without loss of time.

26 ²[d. State or Federal active duty and active duty for training shall
27 be deemed mandatory unless otherwise specified on the member's
28 orders.]²

29 (cf: N.J.S.38A:4-4)

30

31 ²4. (New section) In accordance with the provisions of Article
32 VIII, Section II, paragraph 5 of the New Jersey Constitution, upon
33 application for reimbursement by a county or municipal governing
34 body or a board of education to the State Treasurer for reimbursement
35 and approval of the application by the Director of the Division of
36 Budget and Accounting, reimbursement shall be made by the State for
37 any costs incurred as a result of the provisions of P.L. , c. (pending
38 before the Legislature as this bill).²

39

40 ²[4.] ²5. P.L.1953, c.350 (C.38:23-1.1 et seq.) is repealed.

41

42 ²[5.] ²6. This act shall take effect immediately.

P.L. 2001, CHAPTER 351, *approved January 6, 2002*
Senate, No. 2378 (*First Reprint*)

1 AN ACT concerning military leave for public officers and employees,
2 amending R.S.38:23-1, N.J.S.38A:1-1 and N.J.S.38A:4-4 and
3 repealing P.L.1953, c.350 (C.38:23-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. R.S.38:23-1 is amended to read as follows:

9 ¹[R.S.]¹ 38:23-1. **[An]** a. A permanent or full-time temporary
10 officer or employee of the State or of a board, commission, authority
11 or other instrumentality of the State, or of a county, school district or
12 municipality, who is a member of the organized reserve of the Army
13 of the United States, United States Naval Reserve, United States Air
14 Force Reserve or United States Marine Corps Reserve, or other
15 organization affiliated therewith, including the National Guard of other
16 states, shall be entitled, in addition to pay received, if any, as a
17 member of a reserve component of the Armed Forces of the United
18 States, to leave of absence from his or her respective duty without loss
19 of pay or time on all work days on which he or she shall be engaged
20 in [field training] ¹[mandatory]any period of¹ Federal active duty
21 ¹[or mandatory active duty for training]¹, provided, however, that
22 such leaves of absence shall not exceed 30 work days in any calendar
23 year. ¹[All Federal active duty and active duty for training shall be
24 deemed mandatory unless otherwise specified on the member's
25 orders.]¹ Such leave of absence shall be in addition to the regular
26 vacation or other accrued leave allowed such officer or employee. Any
27 leave of absence for such duty in excess of 30 work days shall be
28 without pay but without loss of time.

29 b. Notwithstanding subsection a. of this section, a full-time
30 temporary officer or employee who has served under such temporary
31 appointment for less than one year shall receive for the service
32 hereinabove described leave without pay but without loss of time.
33 (cf: P.L.1953, c.351, s.1)
34

35 2. N.J.S.38A:1-1 is amended to read as follows:

36 38A:1-1. The following definitions apply to this Title:

37 (a) "Militia" means all the military forces of this State, whether
38 organized, or active or inactive.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSV committee amendments adopted September 6, 2001.

- 1 (b) "National Guard" means the Army National Guard and the Air
2 National Guard.
- 3 (c) "Army National Guard" means that part of the organized militia
4 that is a land force, is trained and has its officers appointed under the
5 16th clause of section 8, Article I of the Constitution of the United
6 States, is organized, armed and equipped wholly or partly at Federal
7 expense, and is Federally recognized.
- 8 (d) "Army National Guard of the United States" is the reserve
9 component of the Army of the United States all of whose members are
10 members of the Army National Guard.
- 11 (e) "Air National Guard" means that part of the organized militia
12 that is an air force, is trained and has its officers appointed under the
13 16th clause of section 8, Article I, of the Constitution of the United
14 States, is organized, armed and equipped wholly or partly at Federal
15 expense, and is Federally recognized.
- 16 (f) "Air National Guard of the United States" means the reserve
17 component of the Air Force of the United States all of whose members
18 are members of the Air National Guard.
- 19 (g) "Armed forces" means the land, air and sea forces established
20 by State or Federal laws, as applicable.
- 21 (h) "Military" means any part of or all of the armed forces.
- 22 (i) "Active duty" means ¹[full-time]¹ duty in the active military
23 service ¹[, other than active duty for training]¹. [State service is
24 meant unless Federal service is specified.]
- 25 (j) "Active duty for training" means ¹[full-time]¹ duty in the active
26 military service for training purposes. [State service is meant unless
27 Federal service is specified.]
- 28 (k) "Inactive duty training" means duty performed by a member of
29 the organized militia other than active duty or active duty for training.
- 30 (l) "Officer" means commissioned officer or warrant officer.
- 31 (m) "Grade" means a step or degree, in a graduated field of office
32 or military rank, that is established and designated as a grade by law
33 or regulation.
- 34 (n) "Rank" means the order of precedence among members of the
35 armed forces.
- 36 (o) "Permanent duty status" means full-time employment of a
37 member of the organized militia ordered to active duty by the
38 Governor to serve in the Department of Military and Veterans' Affairs.
- 39 (p) "Shall" is used in an imperative sense.
- 40 (q) "Will" is used in a permissive sense.
- 41 (r) "Regulations" means the rules and regulations on the governing
42 and training of the militia.
- 43 (s) "Federal service" means duty in the active service of the United
44 States.
- 45 (t) "Armory" means any building or training installation utilized by
46 the organized militia.
- 47 (cf: P.L.1988, c.138, s.1)

1 3. N.J.S.38A:4-4 is amended to read as follows:

2 ¹[N.J.S.]¹38A:4-4. [(a) All officials and employees] ¹a.¹ A
 3 permanent or full-time temporary officer or employee of [this] the
 4 State or of [any] a board [or], commission, authority or other
 5 instrumentality of the State or of [any] a county, school district or
 6 municipality who [are members] is a member of the organized militia
 7 shall be entitled, in addition to pay received, if any, as a member of the
 8 organized militia, to leave of absence from [their] his or her
 9 respective duties without loss of pay or time on all days during which
 10 [they] he or she shall be engaged in ¹[mandatory] any period of¹
 11 State or Federal active duty[,] ¹[or mandatory active duty for
 12 training]¹ [or other duty ordered by the Governor]; provided,
 13 however, that the ¹[such]¹ leaves of absence for Federal active duty
 14 or active duty for training shall not exceed 90 work days in the
 15 aggregate in any [one] calendar year. Any leave of absence for such
 16 duty in excess of 90 work days shall be without pay but without loss
 17 of time.

18 [(b)] b. Leave of absence for such military duty shall be in addition
 19 to the regular vacation or other accrued leave allowed such officers
 20 and employees by the State, county or municipal law, ordinance,
 21 resolution, or regulation.

22 c. Notwithstanding subsection a. of this section, a full-time
 23 temporary officer or employee who has served under such temporary
 24 appointment for less than one year shall receive for the service
 25 hereinabove described leave without pay but without loss of time.

26 ¹[d. State or Federal active duty and active duty for training shall
 27 be deemed mandatory unless otherwise specified on the member's
 28 orders.]¹

29 (cf: N.J.S.38A:4-4)

30

31 ¹4. (New section) In accordance with the provisions of Article
 32 VIII, Section II, paragraph 5 of the New Jersey Constitution, upon
 33 application for reimbursement by a county or municipal governing
 34 body or a board of education to the State Treasurer for reimbursement
 35 and approval of the application by the Director of the Division of
 36 Budget and Accounting, reimbursement shall be made by the State for
 37 any costs incurred as a result of the provisions of P.L. , c. (pending
 38 before the Legislature as this bill).¹

39

40 ¹[4.] 5.¹ P.L.1953, c.350 (C.38:23-1.1 et seq.) is repealed.

41

42 ¹[5.] 6.¹ This act shall take effect immediately.

43

44

45

46 Clarifies military leave benefits for public officers and employees.

CHAPTER 351

AN ACT concerning military leave for public officers and employees, amending R.S.38:23-1, N.J.S.38A:1-1 and N.J.S.38A:4-4 and repealing P.L.1953, c.350 (C.38:23-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.38:23-1 is amended to read as follows:

Leave of absence for public officers, employees.

38:23-1. a. A permanent or full-time temporary officer or employee of the State or of a board, commission, authority or other instrumentality of the State, or of a county, school district or municipality, who is a member of the organized reserve of the Army of the United States, United States Naval Reserve, United States Air Force Reserve or United States Marine Corps Reserve, or other organization affiliated therewith, including the National Guard of other states, shall be entitled, in addition to pay received, if any, as a member of a reserve component of the Armed Forces of the United States, to leave of absence from his or her respective duty without loss of pay or time on all work days on which he or she shall be engaged in any period of Federal active duty, provided, however, that such leaves of absence shall not exceed 30 work days in any calendar year. Such leave of absence shall be in addition to the regular vacation or other accrued leave allowed such officer or employee. Any leave of absence for such duty in excess of 30 work days shall be without pay but without loss of time.

b. Notwithstanding subsection a. of this section, a full-time temporary officer or employee who has served under such temporary appointment for less than one year shall receive for the service hereinabove described leave without pay but without loss of time.

2. N.J.S.38A:1-1 is amended to read as follows:

Definitions.

38A:1-1. The following definitions apply to this Title:

(a) "Militia" means all the military forces of this State, whether organized, or active or inactive.

(b) "National Guard" means the Army National Guard and the Air National Guard.

(c) "Army National Guard" means that part of the organized militia that is a land force, is trained and has its officers appointed under the 16th clause of section 8, Article I of the Constitution of the United States, is organized, armed and equipped wholly or partly at Federal expense, and is Federally recognized.

(d) "Army National Guard of the United States" is the reserve component of the Army of the United States all of whose members are members of the Army National Guard.

(e) "Air National Guard" means that part of the organized militia that is an air force, is trained and has its officers appointed under the 16th clause of section 8, Article I, of the Constitution of the United States, is organized, armed and equipped wholly or partly at Federal expense, and is Federally recognized.

(f) "Air National Guard of the United States" means the reserve component of the Air Force of the United States all of whose members are members of the Air National Guard.

(g) "Armed forces" means the land, air and sea forces established by State or Federal laws, as applicable.

(h) "Military" means any part of or all of the armed forces.

(i) "Active duty" means duty in the active military service.

(j) "Active duty for training" means duty in the active military service for training purposes.

(k) "Inactive duty training" means duty performed by a member of the organized militia other than active duty or active duty for training.

(l) "Officer" means commissioned officer or warrant officer.

(m) "Grade" means a step or degree, in a graduated field of office or military rank, that is established and designated as a grade by law or regulation.

(n) "Rank" means the order of precedence among members of the armed forces.

(o) "Permanent duty status" means full-time employment of a member of the organized militia ordered to active duty by the Governor to serve in the Department of Military and Veterans' Affairs.

- (p) "Shall" is used in an imperative sense.
- (q) "Will" is used in a permissive sense.
- (r) "Regulations" means the rules and regulations on the governing and training of the militia.
- (s) "Federal service" means duty in the active service of the United States.
- (t) "Armory" means any building or training installation utilized by the organized militia.

3. N.J.S.38A:4-4 is amended to read as follows:

Leave of absence without loss of pay, exceptions.

38A:4-4. a. A permanent or full-time temporary officer or employee of the State or of a board, commission, authority or other instrumentality of the State or of a county, school district or municipality who is a member of the organized militia shall be entitled, in addition to pay received, if any, as a member of the organized militia, to leave of absence from his or her respective duties without loss of pay or time on all days during which he or she shall be engaged in any period of State or Federal active duty; provided, however, that the leaves of absence for Federal active duty or active duty for training shall not exceed 90 work days in the aggregate in any calendar year. Any leave of absence for such duty in excess of 90 work days shall be without pay but without loss of time.

b. Leave of absence for such military duty shall be in addition to the regular vacation or other accrued leave allowed such officers and employees by the State, county or municipal law, ordinance, resolution, or regulation.

c. Notwithstanding subsection a. of this section, a full-time temporary officer or employee who has served under such temporary appointment for less than one year shall receive for the service hereinabove described leave without pay but without loss of time.

C.52:13H-2.1 Reimbursement by State for cost incurred for certain military leave.

4. In accordance with the provisions of Article VIII, Section II, paragraph 5 of the New Jersey Constitution, upon application for reimbursement by a county or municipal governing body or a board of education to the State Treasurer for reimbursement and approval of the application by the Director of the Division of Budget and Accounting, reimbursement shall be made by the State for any costs incurred as a result of the provisions of P.L.2001, c.351.

Repealer.

5. P.L.1953, c.350 (C.38:23-1.1 et seq.) is repealed.

6. This act shall take effect immediately.

Approved January 6, 2002.