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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 2. STATE CIVIL SERVICE [18500 - 19799] (Part 2 added by Stats. 1945, Ch. 123.)

CHAPTER 11. Military Service [19770 - 19786] (Chapter 11 added by Stats. 1971, Ch. 446.)

ARTICLE 3. Pay and Benefits [19775 - 19776] (Article 3 added by Stats. 1971, Ch. 446.)

19775. An employee who is granted a long-term military leave of absence and who for a period of not less than one year immediately prior to the effective date active duty begins has had continuous state service as defined by rule which is not broken by a permanent separation shall be entitled to receive his or her salary or compensation for the first 30 calendar days of active duty served during the absence.

(Amended by Stats. 2013, Ch. 427, Sec. 84. (AB 1062) Effective January 1, 2014.)

19775.1. (a) An employee who is granted a short-term military leave of absence for active military duty, including, but not limited to, scheduled military reserve unit drill periods and National Guard active duty and inactive duty training drill periods, and who for a period of not less than one year immediately before the effective date of active duty has had continuous state service as defined by rule that is not broken by a permanent separation, or who has had continuous state service immediately before the effective date of active duty not broken by a permanent separation and sufficient recognized military service that need not be contiguous to equal one year, shall be entitled to receive their salary or compensation for the first 30 calendar days of active duty served during the absence. The term "active duty" for the 30-day salary or compensation shall include National Guard inactive duty training.

(b) An employee who is granted emergency military leave under Section 19773, shall receive their salary or compensation as a state employee while going to, engaging in, and returning from the duty. The employee shall not receive their salary or compensation for more than 30 days each time they are granted the emergency military leave.

(Amended by Stats. 2022, Ch. 384, Sec. 2. (SB 984) Effective January 1, 2023.)

19775.15. (a) In addition to the benefits provided pursuant to Sections 19775 and 19775.1, an employee who, as a member of the California National Guard or a United States military reserve organization, is called into active duty as a result of the Iraq-Kuwait crisis on or after August 2, 1990, shall have the benefits provided for in subdivision (b).

(b) Any employee to which subdivision (a) applies, while on active duty, shall, with respect to active duty served on or after August 2, 1990, receive from the state, for a period not to exceed 180 calendar days, as part of his or her compensation both of the following:

(1) The difference between the amount of his or her military pay and allowances and the amount the employee would have received as a state employee as determined by the Department of Human Resources, including any merit raises which would otherwise have been granted during the time the individual was on active duty.

(2) All benefits which he or she would have received had he or she not been called to active duty unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not return to state service within 60 days of being released from active duty shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision shall not apply to compensation received pursuant to Section 19775.

(d) This section shall not apply to any active duty served voluntarily after the close of the Iraq-Kuwait crisis.

(Amended by Stats. 2012, Ch. 665, Sec. 82. (SB 1308) Effective January 1, 2013.)

19775.16. (a) In addition to the benefits provided pursuant to Sections 19775 and 19775.1, an employee who, as a member of the California National Guard or a United States military reserve organization, is called into active duty as a result of the Bosnia crisis on or after November 21, 1995, shall have the benefits provided for in subdivision (b).

(b) Any employee to which subdivision (a) applies, while on active duty, shall, with respect to active duty served on or after November 21, 1995, as a result of the Bosnia crisis, receive from the state, for a period not to exceed 180 calendar days, as part of his or her compensation both of the following:

(1) The difference between the amount of his or her military pay and allowances and the amount the employee would have received as a state employee as determined by the Department of Human Resources, including any merit raises that would otherwise have been granted during the time the individual was on active duty.

(2) All benefits that he or she would have received had he or she not been called to active duty unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not return to state service within 60 days of being released from active duty shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision shall not apply to compensation received pursuant to Section 19775.

(d) This section shall not apply to any active duty served voluntarily after the close of the Bosnia crisis.

(e) Benefits provided under paragraph (1) of subdivision (b) shall only be provided to an employee who was not eligible to participate in the federal Ready Reserve Mobilization Income Insurance Program (10 U.S.C. Sec. 12521 et seq.) or a successor federal program that, in the determination of the Director of Human Resources, is substantively similar to the federal Ready Reserve Mobilization Income Insurance Program. For an employee eligible to participate in the federal Ready Reserve Mobilization Income Insurance Program or a successor program, and whose monthly salary as a state employee was higher than the sum of his or her military pay and allowances and the maximum allowable benefit under the federal Ready Reserve Mobilization Income Insurance Program or a successor program, the employee shall receive the amount payable under paragraph (1) of subdivision (b), but that amount shall be reduced by the maximum allowable benefit under the federal Ready Reserve Mobilization Income Insurance Program or a successor program. For individuals who elected the federal Ready Reserve Mobilization Income Insurance Program, the state shall reimburse for the cost of the insurance premium for the period of time on active duty, not to exceed 180 calendar days.

(Amended by Stats. 2012, Ch. 665, Sec. 83. (SB 1308) Effective January 1, 2013.)

19775.17. (a) In addition to the benefits provided pursuant to Sections 19775 and 19775.1, a state employee who, as a member of the California National Guard or a United States military reserve organization, is ordered to active duty by Presidential determination that it is necessary to augment the active forces for any operational mission, or when in time of national emergency declared by the President or otherwise authorized by law, shall have the benefits provided for in subdivision (b).

(b) Any state employee to which subdivision (a) applies, while on active duty, shall receive from the state, for the duration of the event as authorized pursuant to Sections 12302 and 12304 of Title 10 of the United States Code, but not for more than 180 calendar days, as part of the state employee's compensation both of the following:

(1) The difference between the amount of the state employee's military pay and allowances and the amount the employee would have received as a state employee, including any merit raises that would otherwise have been granted during the time the individual was on active duty. The amount an employee, as defined in Section 18526, would have received as a state employee, including any merit raises that would otherwise have been granted during the time the individual was on active duty, shall be determined by the Department of Human Resources.

(2) All benefits that the state employee would have received had they not served on active duty unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not reinstate to state service following active duty, shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision shall not apply to compensation received pursuant to Section 19775.

(d) Benefits provided under paragraph (1) of subdivision (b) shall only be provided to a state employee who was not eligible to participate in a federally sponsored income protection program for National Guard personnel or military reserve personnel, or both, called into active duty, as determined by the Department of Human Resources. For a state employee eligible to participate in a federally sponsored income protection program, and whose salary as a state employee was higher than the sum of their military pay and allowances and the maximum allowable benefit under the federally sponsored income protection program, the state employee shall receive the amount payable under paragraph (1) of subdivision (b), but that amount shall be reduced by the maximum allowable benefit under the federally sponsored income protection program. For individuals who elected the federally sponsored

income protection program, the state shall reimburse for the cost of the insurance premium for the period of time on active duty, not to exceed 180 calendar days.

(e) For purposes of this section, "state employee" means an employee as defined in Section 18526 or an officer or employee of the legislative, executive, or judicial department of the state.

(f) This section shall not apply to any state employee entitled to additional compensation or benefits pursuant to Section 19775.16 or 19775.18 of this code, or Section 395.08 of the Military and Veterans Code.

(Amended by Stats. 2024, Ch. 52, Sec. 8. (AB 171) Effective July 2, 2024.)

19775.18. (a) In addition to the benefits provided pursuant to Sections 19775 and 19775.1, a state employee who, as a member of the California National Guard or a United States military reserve organization, is ordered to active duty on and after September 11, 2001, as a result of the War on Terrorism, shall have the benefits provided for in subdivision (b).

(b) Any state employee to which subdivision (a) applies, while on active duty, shall receive from the state, for the duration of the event known as the War on Terrorism, as authorized pursuant to Sections 12302 and 12304 of Title 10 of the United States Code, but not for more than 365 calendar days, as part of the state employee's compensation both of the following:

(1) The difference between the amount of the state employee's military pay and allowances and the amount the employee would have received as a state employee, including any merit raises that would otherwise have been granted during the time the individual was on active duty. The amount an employee, as defined in Section 18526, would have received as a state employee, including any merit raises that would otherwise have been granted during the time the individual was on active duty, shall be determined by the Department of Human Resources.

(2) All benefits that the state employee would have received had they not served on active duty unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not reinstate to state service following active duty, shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision does not apply to compensation received pursuant to Section 19775.

(d) Benefits provided under paragraph (1) of subdivision (b) shall only be provided to a state employee who was not eligible to participate in a federally sponsored income protection program for National Guard personnel or military reserve personnel, or both, called into active duty, as determined by the Department of Human Resources. For a state employee eligible to participate in a federally sponsored income protection program, and whose salary as a state employee was higher than the sum of their military pay and allowances and the maximum allowable benefit under the federally sponsored income protection program, the state employee shall receive the amount payable under paragraph (1) of subdivision (b), but that amount shall be reduced by the maximum allowable benefit under the federally sponsored income protection program. For individuals who elected the federally sponsored income protection program, the state shall reimburse for the cost of the insurance premium for the period of time on active duty, not to exceed 365 calendar days.

(e) The Governor may, by executive order, extend the period of time for the receipt of benefits provided pursuant to this section by no more than an additional 1,460 calendar days.

(f) (1) "Military pay and allowances" for the purposes of this section does not include hazardous duty pay, hostile fire pay, or imminent danger pay. A state employee is entitled to retain these and any other special and incentive pay provided by the federal government.

(2) "State employee" for the purposes of this section means an employee as defined in Section 18526 or an officer or employee of the legislative, executive, or judicial department of the state.

(g) This section does not apply to any state employee entitled to additional compensation or benefits pursuant to Section 19775.16 or 19775.17 of this code, or Section 395.08 of the Military and Veterans Code.

(h) This section does not apply to any active duty served after the close of the War on Terrorism.

(Amended by Stats. 2024, Ch. 52, Sec. 9. (AB 171) Effective July 2, 2024.)

19775.2. (a) Pay under the provisions of Sections 19775 and 19775.1, excluding emergency military leave pay provisions, shall not exceed 30 calendar days in any one fiscal year. The beginning date of active duty shall determine the fiscal year in which the pay is accumulated when the period of active duty extends into another fiscal year.

(b) This section shall become operative on January 1, 2015.

(Repealed (in Sec. 1) and added by Stats. 2011, Ch. 374, Sec. 2. (SB 806) Effective September 30, 2011. Section operative January 1, 2015, by its own provisions.)

19775.3. An employee who meets the conditions under Sections 19775 or 19775.1, or who is granted an emergency military leave shall receive the same vacation, sick leave, and other civil service status, rights and benefits as though he or she had remained in his or her position and not been on military leave except that his or her probationary period shall be extended by the length of the absence, and no more than six months of leave credits shall be granted.

(Amended by Stats. 1993, Ch. 381, Sec. 4. Effective January 1, 1994.)

19775.4. Except as provided in Section 19781, a person in recognized military service whose name was high enough on an employment list to be available for certification for possible permanent appointment to a position while he or she was in the armed forces of the United States shall retain his or her place on the list for three years following the date of his or her release from military service or until six months after the termination of the state military emergency, whichever is the earlier, provided, that a name shall not be retained on a list for longer than eight years after the list is established. The name of a person whose eligibility is retained under the provisions of this section beyond the time other names are removed from a list pursuant to Section 18901 shall be certified ahead of the names of persons on more recently prepared lists, except that the name shall be removed from the list if he or she refuses or has refused to accept appointment to a permanent position after certification thereto subsequent to his or her release from the armed forces.

Notwithstanding Section 19770, this section shall also be applicable to persons who are not civil service employees and were on active military duty because of the Iraq-Kuwait crisis.

(Amended by Stats. 1991, Ch. 98, Sec. 3. Effective July 1, 1991.)

19775.5. Any person in recognized military service, whose name appears on a promotional list, or general reemployment list, appointment from which would accord permanent status, and is retained on such list subject to Section 19775.4, shall have his name certified to fill any vacancy which may occur during the period his name is so retained on such list. The appointing power may appoint him to fill the position to take effect upon his reinstatement under the provisions of Sections 19780 and 19782. Any person in recognized military service, whose name appears on a subdivisional or departmental reemployment list and is retained on such list subject to Section 19775.4 shall have his name certified to fill any vacancy which may occur during the period his name is so retained on such list. The appointing power shall appoint him to fill the vacant position to take effect upon his reinstatement under the provisions of Sections 19780 and 19782.

(Added by Stats. 1971, Ch. 446.)

19775.6. Time spent on military leave, including rehabilitation afforded by the United States or the state following recognized military service by any person having an absolute right to be restored to his or her former position, shall be considered as time spent in state service for the purpose of computing state service for a higher rate of vacation credit, other benefits accruing on the basis of state service, and rights to merit salary adjustments at the time of return to state service.

A veteran who was reinstated from military leave shall receive layoff seniority credits for the time spent on the leave on the same basis as if it were service in the employee's former position.

(Amended by Stats. 1993, Ch. 381, Sec. 5. Effective January 1, 1994.)

19775.7. Whenever a state employee is certified for appointment to a higher position by a department before entering military service and the department has requested his service, but was unable to complete any procedural requirement for such appointment by reason of entry into recognized military service and is eligible for reinstatement pursuant to Section 19780, he shall be afforded an opportunity to complete the necessary requirement for such appointment immediately upon return to state service and if completed satisfactorily shall be considered as having been appointed as of the earliest date of appointment appearing on the certificate of eligibles and shall be considered as having been on military leave from such position.

(Added by Stats. 1971, Ch. 446.)

19775.8. Except as provided in Section 19781, when any person successfully completes part of an open or promotional examination but is unable to complete all portions thereof because of entry into recognized military service, the department or designated appointing authority shall arrange for him or her to take such uncompleted portion of the examination, providing application is made not later than six months after his or her release from military service. Such right to complete an examination shall not continue for longer than five years after the date of the examination.

If the applicant passes the examination, his or her name shall be placed on the eligible list that resulted from the original examination as the list stands at the time his or her name is placed thereon, provided if his or her rating is sufficiently high for his or her name to have been included on a certification to a permanent position while he or she was in the military service had his or her name been on the list when originally established, his or her eligibility shall be established, notwithstanding the removal of names from the original list, pursuant to Section 18901. He or she shall retain his or her place on such list for three years from the termination of his or her service with the Armed Forces. A name thus retained on a list beyond the time other names are removed from the list,

pursuant to Section 18901, shall be removed if the person refuses to accept appointment to a permanent position after certification thereto subsequent to his or her discharge from the Armed Forces.

(Amended by Stats. 2013, Ch. 427, Sec. 86. (AB 1062) Effective January 1, 2014.)

19775.9. An individual on military leave from either a state civil service position held under duration appointment, a position held under an exempt appointment but included in the state civil service prior to his or her release from military service, or a position in any federal or other public agency, the functions of which were transferred to the state prior to his or her release from military service, who would be eligible for reinstatement or restoration to his or her position pursuant to Sections 19780 and 19782, shall be permitted to take any regular examination held while he or she was in the military service, or on military leave, for the class in which he or she had such appointment and for which he or she had the minimum qualifications required of applicants when the examination originally was given, within five years of the date of the original examination. The department or designated appointing authority shall arrange for him or her to take the identical examination if application is made not later than six months after his or her release from military service or six months after the effective date thereof, whichever is later. If the applicant passes the examination, his or her name shall be placed on the eligible list that resulted from the original examination as the list stands at the time his or her name is placed thereon. If his or her rating is sufficiently high for his or her name to have been included on a certification to a permanent position while he or she was in the military service had his or her name been on the list when originally established, his or her eligibility shall be established, notwithstanding the removal of names from the original list pursuant to Section 18901. He or she shall retain his or her place on such list for three years from the termination of his or her service with the Armed Forces or one year from the date such eligibility is established, whichever is later, if his or her rating is sufficiently high for his or her name to have been included on a certification to a permanent position while he or she was in recognized military service had his or her name been on the list when originally established. A name thus retained on a list, beyond the time other names are removed from the list pursuant to the provisions of Section 18901, shall be removed if the person refuses to accept appointment to a permanent position after certification thereto subsequent to his or her discharge from the Armed Forces.

(Amended by Stats. 2013, Ch. 427, Sec. 87. (AB 1062) Effective January 1, 2014.)

19776. If a promotional examination was held while an employee was on military leave that he or she would otherwise have been entitled to take, the employee shall be eligible to take the identical promotional examination within five years of the date of the original examination. The department or designated appointing authority shall arrange for him or her to take the examination within a reasonable time, provided application is made not later than six months after his or her reinstatement from military leave. If the employee qualifies in the examination, his or her name shall be placed on the open and promotional list that resulted from the original examination, as the list stands at the time his or her name is placed thereon. If his or her rating is sufficiently high for his or her name to have been included on a certification to a permanent position while he or she was in the military service had his or her name been on the list when originally established, his or her eligibility shall be established, notwithstanding the removal of names from the original list pursuant to Section 18901. He or she shall retain his or her place on the list for three years from the termination of his or her service with the Armed Forces or one year from the date the eligibility is established, whichever is later. A name thus retained on a list, beyond the time other names are removed from the list pursuant to Section 18901, shall be removed if the person refuses to accept appointment to a permanent position after certification thereto subsequent to his or her discharge from the Armed Forces, or if he or she resigns from state service.

(Amended by Stats. 2013, Ch. 427, Sec. 88. (AB 1062) Effective January 1, 2014.)