

# STATE OF NEW YORK

6623

2023-2024 Regular Sessions

## IN SENATE

May 1, 2023

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed,  
and when printed to be committed to the Committee on Veterans, Home-  
land Security and Military Affairs

AN ACT to amend chapter 154 of the laws of 1921, relating to the port  
authority of New York and New Jersey, in relation to military leave  
for all represented and non-represented persons employed by the port  
authority of New York and New Jersey

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Section 1 of chapter 154 of the laws of 1921, relating to  
2 the port authority of New York and New Jersey, is amended by adding a  
3 new article XXIII to read as follows:

### ARTICLE XXIII

#### 1. Definitions. The term:

6 a. "Employee" means those persons employed at the port authority,  
7 including but not limited to: full-time and part-time employees, those  
8 employees on probation, and temporary employees, whether or not repres-  
9 ented by a labor organization.

10 b. "Ordered military duty", as used in this article, means any mili-  
11 tary duty performed in the service of the state of New York or of the  
12 United States, including but not limited to attendance at any service  
13 school or schools conducted by the armed forces of the United States, by  
14 a port authority employee as a member of any force of the organized  
15 militia or of any reserve force or reserve component of the armed forces  
16 of the United States, pursuant to orders issued by competent state or  
17 federal authority, with or without the consent of such port authority  
18 employee. Participation in routine reserve officer training corps  
19 training is not considered to be military duty except when performing  
20 advanced training duty as a member of a reserve component of the armed  
21 forces.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 2. Leave of absence while engaged in performance of ordered military  
2 duty. Every employee shall be entitled to absent themselves and shall be  
3 deemed to have a leave of absence from his or her duties or service as  
4 such public officer or employee while engaged in the performance of  
5 ordered military duty and while going to and returning from such duty.

6 3. Leave of absence while attending service schools. Every employee  
7 who is or becomes a voluntary member of any force of the organized mili-  
8 tia or of any reserve force or reserve component of the armed forces of  
9 the United States shall be entitled to absent themselves and shall be  
10 deemed to have a leave of absence from his or her duties or service as  
11 such employee while in attendance, as a member of such force or reserve  
12 components, at any service school or schools conducted by the armed  
13 forces of the United States, and while going to and returning from such  
14 school or schools, notwithstanding that orders for such attendance are  
15 or may be issued with the consent of such public officer or employee.

16 4. Leave of absence while performing full-time training duty or active  
17 duty for training with or in an armed force of the United States. Every  
18 employee who is or becomes a member of any force of the organized mili-  
19 tia or of any reserve force or reserve component of the armed forces of  
20 the United States shall be entitled to absent themselves and shall be  
21 deemed to have a leave of absence from his or her duties or service as  
22 such public officer or employee while performing, as a member of such  
23 force or reserve component, initial full-time training duty or initial  
24 active duty for training with or in an armed force of the United States  
25 under the provisions of this chapter or the laws of the United States or  
26 both, and while going to and returning from such full-time training duty  
27 or active duty for training, notwithstanding that orders for such duty  
28 are or may be issued with the consent of such public officer or employ-  
29 ee.

30 5. Employment rights. Time during which an employee is absent pursuant  
31 to the provisions of subdivisions two, three and four of this article  
32 shall not constitute an interruption of continuous employment and,  
33 notwithstanding the provisions of any general, special or local law or  
34 the provisions of any city charter, no such employee shall be subjected,  
35 directly or indirectly, to any loss or diminution of time service,  
36 increment, vacation or holiday privileges, or any other right or privi-  
37 lege, by reason of such absence, or be prejudiced, by reason of such  
38 absence, with reference to continuance in office or employment, reap-  
39 pointment to office, re-employment, reinstatement, transfer or  
40 promotion.

41 6. Pay for military duty. a. Every employee shall be paid their salary  
42 or other compensation as a port authority employee for any and all peri-  
43 ods of absence while engaged in the performance of ordered military  
44 duty, and while going to and returning from such duty, not exceeding a  
45 total of thirty days or twenty-two working days, whichever is greater,  
46 in any one calendar year and not exceeding thirty days or twenty-two  
47 working days, whichever is greater, in any one continuous period of such  
48 absence.

49 b. Every employee of the port authority who served in a combat theater  
50 or combat zone of operations as documented by a copy of his or her  
51 DD214, certificate of release or discharge from active duty, or other  
52 applicable department of defense documentation, shall be paid his or her  
53 salary or other compensation as such port authority employee for any and  
54 all periods of absence while utilizing any health care related services  
55 related to such duty, not exceeding five working days, in any one calen-  
56 dar year.

1 7. Rights and contributions under retirement systems. a. The amount of  
2 required contributions to any pension or retirement system of which an  
3 employee absent while engaged in the performance of ordered military  
4 duty is a member, shall be deducted from the salary or other compen-  
5 sation paid to him or her as such employee as provided in this article.  
6 If such required contributions exceed the amount of such salary or other  
7 compensation to which an employee is entitled while engaged in the  
8 performance of military duty, the amount of such salary or other compen-  
9 sation shall be applied upon such required contributions and such  
10 employee shall have the right to pay to such pension or retirement  
11 system the amount by which such contributions exceed such salary or  
12 other compensation. Such employee shall also have the right to pay to  
13 such system, for any period of the absence during which he or she shall  
14 receive no salary or other compensation as an employee of the port  
15 authority, the amount that he or she would have contributed to such  
16 system if he or she had been present and continuously engaged in the  
17 performance of the duties of his or her position during such period.

18 b. Such payments, other than those deducted from his or her salary or  
19 other compensation as such employee, may be paid from time to time at  
20 any time while engaged in such ordered military duty or within five  
21 years after the date of termination of such ordered military duty, or,  
22 in the event of the death of such employee while engaged in ordered  
23 military duty, such payments, or any part thereof, may be made by the  
24 named beneficiary or the legal representative of such employee's estate  
25 within one year following proof of such death.

26 c. To the extent that such contributions are paid, absence while  
27 engaged in the performance of military duty shall be counted in deter-  
28 mining the length of total service under such pension or retirement  
29 system.

30 d. Any employee, while engaged in the performance of ordered military  
31 duty, or his or her beneficiary, as the case may be, shall be entitled  
32 to all the benefits of the pension or retirement system of which he or  
33 she is a member, except accidental disability retirement and accidental  
34 death benefit.

35 § 2. This act shall take effect upon the enactment into law by the  
36 state of New Jersey of legislation having an identical effect with this  
37 act, but if the state of New Jersey shall have already enacted such  
38 legislation, this act shall take effect immediately; provided that the  
39 state of New Jersey shall notify the legislative bill drafting commis-  
40 sion upon the occurrence of the enactment of the legislation provided  
41 for in section one of this act in order that the commission may maintain  
42 an accurate and timely effective data base of the official text of the  
43 laws of the state of New York in furtherance of effectuating the pro-  
44 visions of section 44 of the legislative law and section 70-b of the  
45 public officers law.