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, Homeland 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 Assembly, do enact as follows:

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

ARTICLE XXIII

1. Definitions. The term:

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

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

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

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

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

4. Leave of absence while performing full-time training duty or active duty for training with or in an armed force of the United States. Every employee who is or becomes a member of any force of the organized militia or of any reserve force or reserve component of the armed forces of the United States shall be entitled to absent themselves and shall be deemed to have a leave of absence from his or her duties or service as such public officer or employee while performing, as a member of such force or reserve component, initial full-time training duty or initial active duty for training with or in an armed force of the United States under the provisions of this chapter or the laws of the United States or both, and while going to and returning from such full-time training duty or active duty for training, notwithstanding that orders for such duty are or may be issued with the consent of such public officer or employee.

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

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

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

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

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

c. To the extent that such contributions are paid, absence while engaged in the performance of military duty shall be counted in determining the length of total service under such pension or retirement system.

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

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