

VETERANS' REEMPLOYMENT RIGHTS

Under The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)
For Permanent State Government Employees

SERVICE MEMBERS ARE ENTITLED TO:

- ❖ Leave of absence without required use of annual leave, after advance notice
- ❖ Reinstatement upon timely application to the position they would have attained or, in limited cases, a comparable position, had they not been on military duty
- ❖ Accrued seniority as if they had been continuously employed, including all rights and benefits determined by seniority (status, rate of pay, pension vesting, and service computations)
- ❖ Training or retraining or other accommodations if returning with a service-connected disability; or if not reasonable, reemployment in a position of "nearest approximation" of his or her former position in terms of status and pay, with full seniority
- ❖ Reasonable efforts to train or otherwise qualify for a position within the organization or placement in another position of lesser status and pay for which he or she is qualified with full seniority
- ❖ Pension plan benefits that accrued during military service upon payment of employee share
- ❖ COBRA-like health coverage upon request for leave of more than 30 days, and continued coverage at regular employee cost for leave of less than 31 days

EMPLOYERS ARE FORBIDDEN TO:

- ❖ Consider timing, frequency, duration, or nature of the service members training or service for denying rights under USERRA
- ❖ Discriminate in employment or take adverse employment action against any person who filed a complaint or assisted in the enforcement of a protection afforded any returning service member under USERRA
- ❖ Discriminate in employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of past, present, or future military membership, application for/or service or obligation

Employers bear the burden of proof for any adverse action or denial regarding employment, reemployment, or other entitlements when a service connection is the motivating factor.

The Uniformed Services Employment and Reemployment Rights Act of 1994, enacted 10/13/1994, updated 1996, 1998, and 2005.

For clarification or additional information concerning veteran's reemployment rights, contact:

West Virginia Division of Personnel, Employee Relations Section

Telephone 304-558-3950, Extension 57209

www.state.wv.us/admin/personnel/emprel/

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