

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Civil, Emergency, Special and Military Leave

The State Civil Service Commission will hold a public hearing on Wednesday, May 8, 1996 to consider the proposed amendments to Civil Service Rules 1.20.01, 11.23 and 11.26, and the repeal of Civil Service Rules 1.15.3, 1.20.02 and 1.20.03. The public hearing will begin at 9 a.m. in the Commission Hearing Room at the Department of State Civil Service, Second Floor, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Consideration will be given to the following:

1.15.3 Repeal

1.20.01 *Military Purposes*—the performance of continuous and uninterrupted military duty on a voluntary or involuntary basis and includes active duty, active duty for training, initial active duty for training, full-time National Guard duty, annual training and inactive duty for training (weekend drills).

1.20.02 Repeal

1.20.03 Repeal

11.23 Civil, Emergency, and Special Leave.

An employee serving with job appointment, probationary or permanent status shall be given time off without loss of pay, annual leave, or sick leave when

(a) - (k) ...

11.26 Military Leave.

(a) Military Leave with Pay.

1. Provided they give advance notice, employees serving on job appointment, probationary or permanent status, who are members of a Reserve Component of the Armed Forces of the United States, shall be entitled to military leave with pay.

2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

3. Maximum military leave with pay for military purposes is 15 working days per calendar year, except that it shall be limited to 15 working days for each tour of active duty.

(b) Use of Annual and Compensatory Leave for Military Purposes.

1. Employees serving on job appointment, probationary or permanent status, who give advance notice of military obligations and apply for annual or compensatory leave for military purposes, shall be granted such leave.

2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

(c) Use of Leave Without Pay For Military Purposes

Employees either serving on job appointment status for significant periods of time, or probationary, or permanent status, who have either exhausted annual leave and compensatory time or choose not to use this paid leave for military purposes, shall be placed on leave without pay. This period of leave without pay for military purposes shall not exceed six years. After six years, they shall be separated from the classified service.

(d) Rights Upon Return

Probationary and permanent employees and employees serving on job appointments for significant periods of time returning to their classified positions under the provisions of this Rule or Rule or 8.19, shall return with such seniority, status, pay, and annual and sick leave accrual rates as they would have had if they had not been absent for military training or military active duty; however, status is subject to the provisions of Rule 9.3.

(e) - (f) ...

Explanation

This is a proposal to amend and re-enact Rules 11.26(a), (b), (c), (d) and 1.20.01 and 11.23; and repeal Rules 1.15.3, 1.20.02 and 1.20.03 to comply with federal and state law.

Regarding military leave, the definition of "military purposes" has been broadened to include weekend drills and active duty. Previously, military leave was not allowed for these activities. This will bring the rule into line with state law which governs unclassified employees.

The rules have been broadened to include job appointments. This is necessary since federal law and state law now stipulate that a reservist or guardsman is entitled to re-employment if there is a reasonable expectation that "such employment will continue indefinitely or for a significant period." Since some job

appointments last for several years, it seems reasonable to cover them with the rule to avoid conflict with the law.

There is also a provision in the law for advance notice. However, it should be noted that the advance notice given by the reservist or guardsman can be either written or verbal. The advance notice is not required by the laws when there is a "military necessity" or the notice is considered "unreasonable or impossible." There is little guidance available on just what the law is trying to do in this instance; however, it is fairly safe to assume that it will cover call-ups for contingencies ranging from the Persian Gulf Crisis to peace-keeping missions and even extend to local alerts, where a reserve unit does not give their members prior notice of a weekend drill to test their readiness to respond. Much of the advance notice can be satisfied if the agency simply asks the reservist to provide a copy of his/her training schedule. However, if the department requests it of one reservist it should request it of all to avoid the anti-discrimination provision in the law. The only other instance where advance notice may be considered unreasonable is where a unit is suddenly given a training slot to fill or a training date for the slot is moved up.

Federal law allows a reservist to claim his or her annual leave for military duty and state law allows them to claim their compensatory time (leave). Therefore, the rules have been changed to allow this. It should be noted that the reservist must apply for the leave - the agency cannot require the reservist to take this leave.

At present, both state and federal law allow an absence of up to five years, with many exceptions, before an employee may be separated. Our current rules call for six years and that figure should be maintained since the extra year will serve as a buffer against bad separations.

Rule 11.23 has been tightened to prevent any conflict with the anti-discrimination clauses in the laws.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the director of State Civil Service, Box 94111, Baton Rouge, LA 70804-9111.

If any accommodations are needed, please notify us prior to this meeting.

Herbert L. Sumrall
Director

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