

708 - MILITARY LEAVE

**Section 708.01
Uniformed Services
Employment and
Reemployment
Rights Act**

In accordance with Title 38 U.S.C., Section 4301 et. Seq., Uniformed Services Employment and Reemployment Rights Act (USERRA), employees of Fort Bend County are granted leave to serve in the U.S. uniformed services, including the armed forces, the various reserve units, the National Guard and the commissioned corps of the Public Health Service.

It is the intention of Fort Bend County to adhere to all requirements of USERRA with regard to military service. The provisions of this policy shall not be construed to abridge any right of compensation or benefits arising under state or federal law or regulations.

**Section 708.02
Service in the State
of Texas Military
Forces**

County officers or employees who serve in the Texas military forces and are ordered to duty or training under proper authority may be entitled to job and benefits protections in accordance with the Texas Government Code Section 437.202, and 437.204. In addition, Texas Government Code Section 437.213, provides that employees serving in the Texas Military Service are entitled to the same rights and benefits as provided under USERRA Sections 4301-4313 and 4316-4319.

**Section 708.03
Notification**

Employees who leave a job to serve in the uniformed services are required to give advance written notice to their employers. The notice can be given by the individual employee, an authorized representative, or by the uniformed service. Employees are excused from the advance notice requirement if giving notice is "impossible or unreasonable" because of military necessity.

Duly authenticated copies of State or Federal military orders shall accompany each request for military leave, and any other documentation reasonably required to establish the employee's right to leave. Leave for military duty whether voluntary or involuntary, shall be granted to employees who provide sufficient documentation of the need for leave.

**Section 708.04
Compensation**

Texas Government Code Section 437.202(a) provides that a County officer or employee who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority. Such person is entitled to 15 days of paid leave per fiscal year (October 1 through September 30).

Unused paid leave cannot be carried forward from one fiscal year to the next, and is not paid out on termination of employment. The 15 days paid leave does not accrue, but will be paid as the leave is taken. If all 15 days of paid leave under this policy are exhausted, the employee may choose to use accrued vacation or compensatory time for additional days, or may choose to take unpaid leave. Accrued sick leave may not be used during times of military leave.

Upon request to the Human Resources Department, an officer or employee of the county shall be given a report of any paid leave used under this policy, and the number of days of paid leave still available in

the fiscal year.

Employees will be placed on leave without pay after all military and other accrued leave (if used) is exhausted. An employee involuntarily called to active duty may be eligible for the supplemental pay option as described in Section 708.08.

**Section 708.05
Health Benefits**

If an employee is on military leave for less than 31 consecutive days, the employee may elect to continue Fort Bend County's health benefits at the same rate as an active employee. For absences of 31 days or more, employees may elect to continue health benefits at up to 102 percent of the full premium for up to 24 months or until the date they decline or become ineligible for reemployment, whichever is less. Notification and payments must be coordinated with Risk Management.

If an employee elects not to continue health benefits while on military leave, the employee will be immediately entitled to health benefits upon their return to work if they meet the requirements for reinstatement of employment.

**Section 708.06
Time Limits for
Reemployment**

The period an employee has to apply for reemployment or report back to work after military service is based on time spent on military duty.

- For service of 1 to 30 consecutive calendar days, the service member must return at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period.
- For service of 31 to 180 calendar days, the service member must submit an application for reemployment within 14 calendar days of release from service.
- For service of more than 180 calendar days, an application for reemployment must be submitted within 90 calendar days of release from service.

The above deadlines to report to work or apply for reemployment may be extended up to two years to accommodate a period of hospitalization or convalescence from a service-connected injury or illness.

A person who fails to report or apply for employment or reemployment within the appropriate period specified in this subsection shall be subject to possible forfeiture of rights and benefits under this policy and may be subject to disciplinary action for unauthorized absence from scheduled work.

**Section 708.07
Reinstatement**

In accordance with USERRA guidelines, the County will reinstate employees who:

- During their employment with the County have had no more than five cumulative years of leave for military duty (unless their service fits into one of the excused categories defined in USERRA);
- Are not discharged under dishonorable conditions; and
- Reapply in a timely manner.

An Elected Official, Department Head or supervisor may request a copy

of military orders showing the date of release from duty and satisfactory performance of duty from an employee returning from military leave.

Upon the end of the military leave, the employee will, upon request, be reinstated to a position and rate of pay comparable to what the employee could reasonably have been expected to attain if they had been continuously employed with the County. For additional information regarding reinstatement rights after military leave, please contact the Human Resources Department.

**Section 708.08
Retirement and
Other Benefits**

During a military leave of absence, an employee shall retain any accrued vacation, sick leave, compensatory and deferred time that is not used during their period of military leave. Military leave shall not be treated as a break in service for purposes of longevity. During periods of unpaid leave, an employee will not accrue vacation or sick leave, and will not receive longevity pay or holiday pay.

Employees who return from unpaid military leave subject to the conditions of Section 708.06 and 708.07 are entitled to service credit for the unpaid period with Texas County and District Retirement System (TCDRS) for purposes of vesting and retirement eligibility. However, employees must notify TCDRS upon return from leave by filing TCDRS form *TCDRS-90, Application for Military Service Time Under USERRA* to have the time added to their retirement account. In addition, employees may choose to make contributions to their TCDRS account in an amount not to exceed what they would have contributed had they been continuously employed. The contributions may be made over a period equal to three times the period of military service, but no longer than five years.

**Section 708.09
Supplemental Pay
(for Reservists
Involuntarily Called
to Active Duty)**

To the extent that monies are available to be appropriated for this purpose, Commissioners Court reserves the right to supplement an employee's pay, in whole or in part, if the employee is involuntarily called to active duty during a partial or total mobilization of the reserve components of the armed forces of the United States in support of a contingency operation.

Employees may qualify for this supplemental pay if they meet the following criteria:

- A member of a reserve component of the armed forces of the United States;
- Who is involuntarily called to Active Military Duty;
- Who has exhausted the Military, Compensatory and Deferred Time, and Vacation Leave to which the employee is entitled;
- Who is not separated from employment because of resignation or termination for any reason that is not a direct consequence of the person's call to Active Military Duty;
- Who has not committed a voluntary act that has the effect of adding to the period that the person is subject to Active Military Duty; and
- Who has not received a dishonorable or bad conduct discharge from the armed forces.

If applicable, supplemental pay shall be calculated for a period of up to twelve months starting with the date of military activation, and include the difference between the wages the employee would have earned if they had been continuously employed with the County, minus the wages paid

to the employee by the armed forces and any amounts paid to the employee by the County during this same 12 months. For purposes of this policy, County wages shall consist of the bi-weekly salary, plus longevity and any certification pay.

Upon return from active duty, eligible employees will be given up to twelve months to submit documents consisting of: orders to report for duty, earnings statements for all days claimed, and a separation order showing the last day of duty or like statement. Human Resources will calculate the amount due and submit the request for military supplemental pay to Commissioners Court for review and approval. If eligible and approved, supplemental pay will be made in a one-time pay adjustment. Commissioners Court reserves the right to discontinue this supplemental pay provision at any time, with or without notice.

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
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