

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 498

Representative Fessler

Cosponsors: Representatives Flowers, Boyd, Lundy, Yuko

—

A B I L L

To amend section 5923.05 of the Revised Code to grant 1
annual military leave of up to 408 hours to 2
firefighters and those other public employees who 3
do not work a traditional workweek of 40 hours and 4
to entitle firefighters and these public employees 5
to use such leave to cover an entire work shift 6
any part of which was used to perform military 7
service. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5923.05 of the Revised Code be 9
amended to read as follows: 10

Sec. 5923.05. (A)(1) Permanent public employees who are 11
members of the Ohio organized militia or members of other reserve 12
components of the armed forces of the United States, including the 13
Ohio national guard, are entitled to a leave of absence from their 14
respective positions without loss of pay for the time they are 15
performing service in the uniformed services, for periods of up to 16
one month, for each calendar year in which they are performing 17
service in the uniformed services. Firefighters and other 18
permanent public employees who do not work a traditional workweek 19

of forty hours are entitled to use the leave of absence granted 20
under this division to cover an entire work shift any part of 21
which the employee is absent because of performing service in the 22
uniformed services. 23

(2) As used in this section: 24

(a) "Calendar year" means the year beginning on the first day 25
of January and ending on the last day of December. 26

(b) "Month" means twenty-two eight-hour work days or one 27
hundred seventy-six hours within one calendar year or, in the case 28
of firefighters and other permanent public employees who do not 29
work a traditional workweek of forty hours, four hundred eight 30
hours within one calendar year. 31

(c) "Permanent public employees" and "uniformed services" 32
have the same meanings as in section 5903.01 of the Revised Code. 33

(d) "State agency" means any department, bureau, board, 34
commission, office, or other organized body established by the 35
constitution or laws of this state for the exercise of any 36
function of state government, the general assembly, all 37
legislative agencies, the supreme court, the court of claims, and 38
the state-supported institutions of higher education. 39

(B) Except as otherwise provided in division (D) of this 40
section, any permanent public employee who is employed by a 41
political subdivision, who is entitled to the leave provided under 42
division (A) of this section, and who is called or ordered to the 43
uniformed services for longer than a month, for each calendar year 44
in which the employee performed service in the uniformed services, 45
because of an executive order issued by the president of the 46
United States, because of an act of congress, or because of an 47
order to perform duty issued by the governor pursuant to section 48
5919.29 of the Revised Code is entitled, during the period 49
designated in the order or act, to a leave of absence and to be 50

paid, during each monthly pay period of that leave of absence, the 51
lesser of the following: 52

(1) The difference between the permanent public employee's 53
gross monthly wage or salary as a permanent public employee and 54
the sum of the permanent public employee's gross uniformed pay and 55
allowances received that month; 56

(2) Five hundred dollars. 57

(C) Except as otherwise provided in division (D) of this 58
section, any permanent public employee who is employed by a state 59
agency, who is entitled to the leave provided under division (A) 60
of this section, and who is called or ordered to the uniformed 61
services for longer than a month, for each calendar year in which 62
the employee performed service in the uniformed services, because 63
of an executive order issued by the president of the United 64
States, because of an act of congress, or because of an order to 65
perform duty issued by the governor pursuant to section 5919.29 or 66
5923.21 of the Revised Code is entitled, during the period 67
designated in the order or act, to a leave of absence and to be 68
paid, during each monthly pay period of that leave of absence, the 69
difference between the permanent public employee's gross monthly 70
wage or salary as a permanent public employee and the sum of the 71
permanent public employee's gross uniformed pay and allowances 72
received that month. 73

(D) No permanent public employee shall receive payments under 74
division (B) or (C) of this section if the sum of the permanent 75
public employee's gross uniformed pay and allowances received in a 76
pay period exceeds the employee's gross wage or salary as a 77
permanent public employee for that period or if the permanent 78
public employee is receiving pay under division (A) of this 79
section. 80

(E) Any political subdivision of the state, as defined in 81

section 2744.01 of the Revised Code, may elect to pay any of its 82
permanent public employees who are entitled to the leave provided 83
under division (A) of this section and who are called or ordered 84
to the uniformed services for longer than one month, for each 85
calendar year in which the employee performed service in the 86
uniformed services, because of an executive order issued by the 87
president or an act of congress, such payments, in addition to 88
those payments required by division (B) of this section, as may be 89
authorized by the legislative authority of the political 90
subdivision. 91

(F) Each permanent public employee who is entitled to leave 92
provided under division (A) of this section shall submit to the 93
permanent public employee's appointing authority the published 94
order authorizing the call or order to the uniformed services or a 95
written statement from the appropriate military commander 96
authorizing that service, prior to being credited with that leave. 97

(G) Any permanent public employee of a political subdivision 98
whose employment is governed by a collective bargaining agreement 99
with provision for the performance of service in the uniformed 100
services shall abide by the terms of that collective bargaining 101
agreement with respect to the performance of that service, except 102
that no collective bargaining agreement may afford fewer rights 103
and benefits than are conferred under this section. 104

Section 2. That existing section 5923.05 of the Revised Code 105
is hereby repealed. 106