

As Introduced

**128th General Assembly
Regular Session
2009-2010**

S. B. No. 88

Senator Fedor

—

A B I L L

To amend section 5923.05 of the Revised Code to grant 1
annual military leave of up to 768 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 or if such firefighters or other 31
permanent public employees are required to conduct two or three 32
weeks of military training per year under the AFORGEN or ARFORGEN 33
Model, seven hundred sixty-eight hours within one calendar year. 34

(c) "Permanent public employee" means any person holding a 35
position in public employment that requires working a regular 36
schedule of twenty-six consecutive biweekly pay periods, or any 37
other regular schedule of comparable consecutive pay periods, 38
which is not limited to a specific season or duration. "Permanent 39
public employee" does not include student help; intermittent, 40
seasonal, or external interim employees; or individuals covered by 41
personal services contracts. 42

(d) "State agency" means any department, bureau, board, 43
commission, office, or other organized body established by the 44
constitution or laws of this state for the exercise of any 45
function of state government, the general assembly, all 46
legislative agencies, the supreme court, the court of claims, and 47
the state-supported institutions of higher education. 48

(e) "Service in the uniformed services" means the performance 49
of duty, on a voluntary or involuntary basis, in a uniformed 50
service, under competent authority, and includes active duty, 51

active duty for training, initial active duty for training, 52
inactive duty for training, full-time national guard duty, and 53
performance of duty or training by a member of the Ohio organized 54
militia pursuant to Chapter 5923. of the Revised Code. "Service in 55
the uniformed services" includes also the period of time for which 56
a person is absent from a position of public or private employment 57
for the purpose of an examination to determine the fitness of the 58
person to perform any duty described in this division. 59

(f) "Uniformed services" means the armed forces, the Ohio 60
organized militia when engaged in active duty for training, 61
inactive duty training, or full-time national guard duty, the 62
commissioned corps of the public health service, and any other 63
category of persons designated by the president of the United 64
States in time of war or emergency. 65

(B) Except as otherwise provided in division (D) of this 66
section, any permanent public employee who is employed by a 67
political subdivision, who is entitled to the leave provided under 68
division (A) of this section, and who is called or ordered to the 69
uniformed services for longer than a month, for each calendar year 70
in which the employee performed service in the uniformed services, 71
because of an executive order issued by the president of the 72
United States, because of an act of congress, or because of an 73
order to perform duty issued by the governor pursuant to section 74
5919.29 of the Revised Code is entitled, during the period 75
designated in the order or act, to a leave of absence and to be 76
paid, during each monthly pay period of that leave of absence, the 77
lesser of the following: 78

(1) The difference between the permanent public employee's 79
gross monthly wage or salary as a permanent public employee and 80
the sum of the permanent public employee's gross uniformed pay and 81
allowances received that month; 82

(2) Five hundred dollars. 83

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

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

(E) Any political subdivision of the state, as defined in section 2744.01 of the Revised Code, may elect to pay any of its permanent public employees who are entitled to the leave provided under division (A) of this section and who are called or ordered to the uniformed services for longer than one month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the president or an act of congress, such payments, in addition to those payments required by division (B) of this section, as may be

authorized by the legislative authority of the political 116
subdivision. 117

(F) Each permanent public employee who is entitled to leave 118
provided under division (A) of this section shall submit to the 119
permanent public employee's appointing authority the published 120
order authorizing the call or order to the uniformed services or a 121
written statement from the appropriate military commander 122
authorizing that service, prior to being credited with that leave. 123

(G) Any permanent public employee of a political subdivision 124
whose employment is governed by a collective bargaining agreement 125
with provision for the performance of service in the uniformed 126
services shall abide by the terms of that collective bargaining 127
agreement with respect to the performance of that service, except 128
that no collective bargaining agreement may afford fewer rights 129
and benefits than are conferred under this section. 130

Section 2. That existing section 5923.05 of the Revised Code 131
is hereby repealed. 132