

- SUBJECT:** Compensation and benefits for state military forces and dependents
- COMMITTEE:** State, Federal and International Relations — committee substitute recommended
- VOTE:** 8 ayes — Hunter, P. Moreno, Berman, Elkins, Isett, C. Jones, Madden, Juan Solis
- 0 nays
- 1 absent — Chavez
- WITNESSES:** For — John Braun, National Guard Association of Texas; Daniel James, III, Adjutant General's Department, Texas National Guard; Hugh Shine, 149th Aviation Battalion, Texas Army National Guard
- Against — None
- BACKGROUND:** Members of the Texas National Guard can be called to federal service by the president, and to state service by the governor (Chapter 431, Government Code).
- DIGEST:** CSHB 1887 would entitle members of the state military forces called to training or duty to return to their civilian jobs without the loss of time, efficiency rating, vacation time, or any benefit of employment. The bill would make conforming changes specifying that training is covered in addition to active duty.
- The bill would specify that the same allowances, in addition to pay, for the United States Armed Forces are due to state military forces when training or on duty. The bill would make disability compensation for state military forces injured in the line of duty or training consistent with workers' compensation insurance coverage for state employees, as defined by Chapter 501 of the Labor Code.
- Also, a board of officers appointed by the adjutant general could award additional compensation annually. The adjutant general could use public funds for an insurance or annuity contract to cover disability claims. CSHB

1887 also would provide a state military member's surviving dependent parent with a monthly stipend that would not exceed \$79 per month.

Changes in the law would cover injuries or deaths after August 14, 1998, and compensation payable on or after the effective date of the bill. The former law would continue for any compensation paid or payable on claims prior to August 15, 1998. The former law also would apply to compensation paid or payable before the effective date of CSHB 1887. The bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

In 1998, while serving the state during severe floods in Del Rio, Sgt. Steven McGwire of the Texas National Guard was blinded in an accident in a State Guard vehicle. Due to discrepancies between benefits in state and federal service, Sgt. McGwire's subsequent disability payments were quite small. The Texas Adjutant General's Department has asked for legislation to correct these discrepancies, to help all Texas National Guard members at risk while on duty or in state service, and to do the right thing for Sgt. McGwire.

Current Texas law provides lower benefits and less protection to National Guard members in service to the state than when called up by the federal government. CSHB 1887 would extend the same coverage for permanent disability to the state military forces as provided to state employees through workers' compensation. The bill also would expressly provide job security for state military forces who are called for training, not just duty.

To have the flexibility to deal with special circumstances, CSHB1887 would allow a board of officers to award additional compensation for a disabled member. The adjutant general could purchase an insurance policy or annuity to carry out this provision. The bill would apply retroactively to disabilities sustained after August 14, 1998, thus including Sgt. McGwire.

Using the existing workers' comp system for state employees to help state military forces makes good business sense. The mechanism, rules, staff, and contracts already are in place and easily could handle the relatively small number of claims that would be generated by National Guard members permanently disabled on duty. Current law has no real mechanism to deal with disability claims in a systematic way.

OPPONENTS
SAY:

The bill would shoehorn state military force members into the cumbersome workers' compensation system for state employees. Existing law exempts state military forces for a reason. The best way to bring the benefits of state military forces up to par would be simply to provide more money and increase these benefits. This would be a simpler and better way to help National Guard members injured on duty.

This bill also would tie the amount of state military disability benefits to the workers' comp amount, which is based on an average salary. Because state forces are part-time, temporary employees who volunteer out of what may be much higher-paying civilian jobs, their benefits could be comparatively, or even extremely, low.

The bill also should provide more to dependent parents. The bill would provide only \$80 a month to surviving parents who depended on a Texas soldier for support, or \$79 to a blind, or helpless parent. That would not be enough to compensate for the loss of the soldier's income and support.

The bill would apply retroactively to August 15, 1998, but would not cover anyone injured before that date. The bill should retroactively cover all disabled state military force members regardless of when the injury was sustained.

NOTES:

The original bill would have spelled out allowable compensation for disability rather than deferring to the workers compensation statute and did not include the provision allowing additional compensation by the board of officers.

The companion bill, SB 525 by Luna, passed the Senate on April 19 and on April 27 was reported favorably, without amendment by the State, Federal, and International Relations Committee, which recommended the bill be set on the Local, Consent, and Resolutions Calendar.

The author plans to offer a floor amendment to make the bill identical to the Senate engrossed version of SB 525 by Luna. The floor amendment would:

- ! provide for additional compensation through an additional insurance policy in cooperation with the State Office of Risk Management;
- ! remove the additional compensation provided by the adjutant general;

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- ! provide disability and death benefits based upon calculations using the guardsman's civilian and military salaries; and
- ! remove the specific compensation for surviving dependents.