

## **BILL ANALYSIS**

Senate Research Center

S.B. 833  
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Government Organization  
8/4/2009  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, when a member of the military who is employed by state government is called to military duty, Section 661.904 (Differential Pay), Government Code, requires the state to pay the person an amount equal to the difference between the military wages the person will receive and the pay the person was receiving in his or her employment with the state, if the amount of military pay is less than the pay the person received from the state. This is referred to as "differential pay." Because the military member is paid through a combination of military pay and differential pay, his or her time deployed is considered by the state to be "paid leave." When a state employee is on paid leave, the employee continues to accrue vacation and sick leave.

In some cases, when a person in military service is an officer, his or her military pay may be higher than the person's state pay. In this case, the person would not be entitled to differential pay. When a military member does not receive differential pay, his or her leave of absence from state employment is considered unpaid leave. When a state employee is on unpaid leave, the employee does not continue to accrue vacation and sick leave.

S.B. 833 amends Section 661.904, Government Code, to allow a state employee called to military service to continue to accrue vacation and sick leave even when the person is considered to be on unpaid leave because he or she is not entitled to differential pay.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 661.904(b) and (c), Government Code, as follows:

(b) Provides that the employee on an unpaid leave of absence during military duty described by Subsection (a) continues to accrue state service credit for purposes of longevity pay, vacation leave, and sick leave. Deletes existing text providing that the employee while on military duty described by Subsection (a) does not accrue vacation or sick leave during an unpaid leave of absence.

(c) Authorizes the employee to retain any accrued vacation or sick leave and entitles that employee to be credited with those balances on return to state employment from military duty described by Subsection (a). Provides that leave earned while on an unpaid leave of absence during military duty described by Subsection (a), rather than in a state-paid status, is credited to the employee's balance when the employee returns to active state employment.

SECTION 2. Amends Subchapter A, Chapter 431, Government Code, by adding Section 431.0055, as follows:

Sec. 431.0055. DUAL OFFICE HOLDING. Provides that a position in or membership in the state military forces is not considered to be a civil office of emolument.

SECTION 2. Effective date: Section 1 of this Act, upon passage or September 1, 2009.

Effective date: Section 2 of this Act, January 1, 2010, contingent upon approval by the voters of a constitutional amendment authorizing an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices.