

used exclusively for recycling, while engaged in recycling in a political subdivision that mandates curbside recycling pickup.

(b) ~~Until July 1, 2005,~~ Weight restrictions imposed under subdivisions 1 and 2 do not apply to (1) a vehicle that does not exceed 14,000 pounds per single axle and is used exclusively for recycling as described in paragraph (a), or (2) a vehicle that does not exceed 14,000 pounds per single axle and is designed and used exclusively for collecting mixed municipal solid waste, as defined in section 115A.03, subdivision 21, while engaged in such collection.

(c) Notwithstanding section 169.80, subdivision 1, a violation of weight restrictions imposed under subdivisions 1 and 2 by a vehicle designed and used exclusively for recycling while engaged in recycling in a political subdivision that mandates curbside recycling pickup while engaged in such collection, or by a vehicle that is designed and used exclusively for collecting mixed municipal solid waste as defined in section 115A.03, subdivision 21, while engaged in such collection, is not subject to criminal penalties but is subject to a civil penalty for excess weight under section 169.871.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor May 2, 2005

Signed by the governor May 5, 2005, 3:09 p.m.

CHAPTER 35—H.F.No. 2126

An act relating to the military; clarifying the pay differential law for state employees who are ordered to active military service; amending Minnesota Statutes 2004, sections 43A.183; 192.261, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 43A.183, is amended to read:

43A.183 PAYMENT OF SALARY DIFFERENTIAL FOR RESERVE FORCES WHO REPORTED FOR ACTIVE SERVICE.

(a) Each agency head shall pay to each eligible member of the National Guard or other reserve component of the United States armed forces of the United States an amount equal to the difference between the member's basic active duty military salary and the salary the member would be paid as an active state employee, including any adjustments the member would have received if not on leave of absence person's salary differential for each month or portion of month that the person is ordered to serve in active military service. The person's salary differential is calculated as the difference between:

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(1) the person's monthly total gross earnings as an active state employee, excluding any overtime pay received but including all other earnings, averaged over the last three full months of the person's active state employment prior to reporting to active military service, and including any additional salary or earnings adjustments that the person would have received at any time during the person's military leave had the person been serving as an active state employee during that time; and

(2) the person's monthly base pay in active military service.

This payment may be made only to a person whose ~~basic active duty military salary is less than the salary the person would be paid as an active state employee for whom the amount in clause (1) is greater than the amount in clause (2).~~ Payments must be made at the intervals at which the member received pay as a state employee, except that any back pay due under this section may be paid as a lump sum. Payment under this section must not extend beyond four years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve. An eligible member of the National Guard or other reserve component of the United States armed forces may apply for the pay differential benefits authorized under this section prior to, during, or following the person's active military service on or after May 29, 2003.

(b) An eligible member of the reserve components of the United States armed forces of the United States is a reservist or National Guard member who was an employee of the state of Minnesota at the time the member reported took military leave under section 192.261 to report for active military service.

(c) For the purposes of this section, an employee of the state is an employee of the executive, judicial, or legislative branch of state government or an employee of the Minnesota State Retirement System, the Public Employee Retirement Association, or the Teachers Retirement Association.

(d) For purposes of this section, the term "active service" has the meaning given in section 190.05, subdivision 5, but excludes service performed exclusively for purposes of:

(1) basic combat training, advanced individual training, annual training, and periodic inactive duty training;

(2) special training periodically made available to reserve members; and

(3) service performed in accordance with section 190.08, subdivision 3; and

(4) service performed as part of the active guard/reserve program pursuant to United States Code, title 32, section 502(f), or other applicable authority.

(e) The agency head must continue the employee's enrollment in health and dental coverage, and the employer contribution toward that coverage, until the employee is covered by health and dental coverage provided by the armed forces reports for active military service. If the employee had elected dependent coverage for health or dental coverage as of the time that the employee reported for active service, the agency head must offer the employee the option to continue the dependent coverage at the

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employee's own expense. The agency head must permit the employee to continue participating in any pretax account in which the employee participated when the employee reported for active service, to the extent of employee pay available for that purpose. An employee who has opted to continue a permitted benefit may cancel that continuation at any time during the person's military leave by written notification from the employee, or from the employee's designated attorney-in-fact under a power of attorney, to the agency head or the commissioner of employee relations.

(f) The agency head must periodically inform in writing all agency personnel who are or may be members of the reserve component of the United States armed forces of the benefits provided under this section and of the procedures relevant to securing those benefits, including but not limited to any procedures regarding the continuation and discontinuation of any optional deductions. It will suffice to meet this requirement if the agency head posts the information on the agency Web site in a highly recognizable manner that can be easily found and understood by the employees to whom it might apply.

Upon being ordered to active duty, the employee must notify the agency head of that order in a timely manner and must provide to the agency head the name of and contact information for the employee's designated attorney-in-fact under a power of attorney. Prior to the commencement of the employee's military leave, the agency head must ensure the agency's receipt of that information and immediately convey that information to the commissioners of finance and employee relations, including any subsequent change in that designation by the employee. When communicating with the employee during the person's military leave, the agency head and the commissioners of finance and employee relations must immediately provide a copy of the communication to the employee's designated attorney-in-fact. Those officials must also honor requests for information or other appropriate directives from that designee on behalf of the employee during the employee's military leave.

(g) The commissioners of employee relations and finance shall adopt procedures required to implement this section. The procedures are exempt from chapter 14.

(g) (h) This section does not apply to a judge, legislator, or constitutional officer of the executive branch.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to state employees serving in active military service on or after May 29, 2003.

Sec. 2. Minnesota Statutes 2004, section 192.261, subdivision 1, is amended to read:

Subdivision 1. **LEAVE OF ABSENCE WITHOUT PAY.** Subject to the conditions hereinafter prescribed, any officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state who engages in active service in time of war or other emergency declared by proper authority in any of the military or naval forces of the state or of the United States for which leave is not otherwise allowed by law shall be entitled to leave of absence from

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the officer's or employee's public office or employment without pay during such service, with right of reinstatement as hereinafter provided. Such leave of absence without pay, whether heretofore or hereafter, shall not extend beyond four years plus such additional time in each case as such an officer or employee may be required to serve pursuant to law. This shall not be construed to preclude the allowance of leave with pay for such service to any person entitled thereto under section 43A.183, 192.26, or 471.975. Nothing in this section contained shall affect any of the provisions or application of section 352.27 nor of section 192.26 to 192.264, or any laws amendatory thereof, insofar as such sections pertain to the state employees retirement association or its members.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to state employees serving in active military service on or after May 29, 2003.

Presented to the governor May 2, 2005

Signed by the governor May 5, 2005, 3:15 p.m.

CHAPTER 36—S.F.No. 244

An act relating to education; providing for consecutive teaching experience for a teacher whose probationary employment is interrupted by military service; amending Minnesota Statutes 2004, sections 122A.40, subdivision 5; 122A.41, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 122A.40, subdivision 5, is amended to read:

Subd. 5. **PROBATIONARY PERIOD.** (a) The first three consecutive years of a teacher's first teaching experience in Minnesota in a single district is deemed to be a probationary period of employment, and after completion thereof, the probationary period in each district in which the teacher is thereafter employed shall be one year. The school board must adopt a plan for written evaluation of teachers during the probationary period. Evaluation must occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school must not be included in determining the number of school days on which a teacher performs services. Except as otherwise provided in paragraph (b), during the probationary period any annual contract with any teacher may or may not be renewed as the school board shall see fit. However, the board must give any such teacher whose contract it declines to renew for

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