3.088 LEAVE OF ABSENCE.

Subdivision 1. **Leave of absence without pay.** Subject to this section, any appointed officer or employee of a political subdivision, municipal corporation, or school district of the state or an institution of learning maintained by the state who serves as a legislator or is elected to a full-time city or county office or to an Indian Tribal council in Minnesota is entitled to a leave of absence from the public office or to employment without pay when on the business of the office, with right of reinstatement as provided in this section.

Subd. 2. **Reinstatement.** Except as provided in this section, upon the completion of the last legislative day in each calendar year, or, in the case of an elected city, county, or Tribal council official, on the completion of the final day of the term to which the official was elected, the officer or employee shall be reinstated in the public position held at the time of entry into the legislature or taking city, county, or Tribal council office, or be placed in a public position of like seniority, status, and pay if it is available at the same salary which would have been received if the leave had not been taken, upon the following conditions:

(1) that the position has not been abolished or that its term, if limited, has not expired;

(2) that the legislator makes a written application for reinstatement to the appointing authority within 30 days after the last legislative day in a calendar year or, in the case of an elected city, county, or Tribal council official, within 30 days after the expiration of the elected term; and

(3) that the request for reinstatement is made not later than ten years after the granting of the leave.

Upon reinstatement, the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, insurance benefits, sick leave, and other benefits as if actually employed during the time of the leave. No public employer is required to compensate a reinstated employee or officer for time spent by that employee or officer away from work for the employer and on the business of the state legislature during the period between the first and last legislative day in each calendar year or on the business of an elected city, county, or Tribal council office. No officer or employee reinstated shall be removed or discharged within one year after reinstatement except for cause and after notice and hearing, but this does not extend a term of service limited by law.

Subd. 3. **Pension and retirement rights.** A public officer or employee who receives leave of absence under this section or is elected as a state constitutional officer and has rights in a state, municipal, or other public pension, retirement, or relief system shall retain all the rights accrued up to the time of taking leave. Time spent by the employee as a member of the legislature or as an elected city, county, or Tribal council official or state constitutional officer shall be calculated in the same manner as if the employee had spent that time in the service of the public employer for the purpose of determining vesting of the employee's rights in the employer's pension, retirement, or relief system. Under no circumstances shall two governmental units pay the employee's share of pension contributions when the employee is on leave of absence to serve in the legislature or as an elected city, county, or Tribal council official.

Subd. 4. **Vacancies to be filled temporarily.** When a public officer or employee is absent with leave under this section and it is necessary to provide for the performance of the duties of the absentee's position during the absence, the authority having power to fill a vacancy in the position may appoint an acting incumbent, who shall qualify as required for the regular incumbent, receive the same compensation as fixed by law or proper authority, and have the powers and perform the duties of the position until the return of the regular incumbent. This section does not preclude making other lawful provision for the discharge of the duties of the position.

Subd. 5. **Supplementary.** The rights and privileges granted by this section do not apply if the elected office is constitutionally or legally incompatible with the public office or employment or the elected person chooses to take leave as provided by other law.

Subd. 6. **Pensions.** Notwithstanding any other law or ordinance or state, municipal, or other public retirement or relief association rule or bylaw, a person shall not be disqualified from receiving a legislative retirement pension or allowance because the person is entitled to receive a public pension or retirement benefit as a result of employment by another public employer. The person shall receive both the legislative retirement pension or allowance and any state, municipal, or other public pension or retirement benefit for which the person has qualified.

History: *1974 c 306 s 4; 1977 c 140 s 1-4; 1985 c 248 s 70; 1986 c 444; 1988 c 469 art 1 s 1; 1991 c 308 s 1; 2017 c 92 art 1 s 1-3*