



Legislation Text

File #: 2019-0023, **Version:** 1

DATE: March 12, 2019

SUBJECT:

RESOLUTION APPROVING THE ENHANCED MILITARY LEAVE POLICY FOR ALL CLASSIFIED AND UNCLASSIFIED EMPLOYEES THROUGH MARCH 31, 2021

EXECUTIVE SUMMARY:

The "Enhanced Military Leave Policy" provides additional military leave pay, if necessary, to ensure that San Diego Unified Port District (District) employees called to active duty under military operations resulting from terrorist attacks on the United States maintain their current level of pay and benefits. The Enhanced Military Leave Policy was originally adopted by the Board of Port Commissioners (Board) on October 23, 2001, as Resolution 2001-236, which originally extended through March 31, 2002. Since that time, it has been extended approximately every two years, most recently through March 31, 2019.

Operations Noble Eagle and Enduring Freedom began after the terrorist attacks of September 11, 2001, and included authorization from former President George W. Bush for the military to call up fifty thousand (50,000) military reservists. As of 2019, Operation Noble Eagle remains active.

The District has had, and currently has, employees serving on active duty under Operation Noble Eagle. If approved by the Board, the Enhanced Military Leave Policy would be extended through March 31, 2021, and would cover military leave orders in support of any operations as a result of terrorist attacks on the United States.

RECOMMENDATION:

Adopt a Resolution Approving the Enhanced Military Leave Policy for All Classified and Unclassified Employees Through March 31, 2021

FISCAL IMPACT:

Since September 14, 2001, when the enhanced policy took effect, seventeen District employees received orders for active duty in support of Operations Noble Eagle and Enduring Freedom. Several employees have been called multiple times. To date, the District has not paid out any salary under the Enhanced Military Leave Policy. Health and pension plan continuation coverage is provided for service members under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). District employees will continue to receive full benefits for the covered period, including annual leave.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that is a safe place to visit, work and play.
- A Port with an innovative and motivated workforce.

DISCUSSION:

The District's Personnel Rules and Regulations Rule 10.8 - Military Leave and the District's Policy on Military Leave memorialize employee rights set forth in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and the California *Military and Veterans Code* and grant all employees qualifying for military leave full pay for up to 22 work days (176 hours) per salary year (October 1 to September 30).

Employees who are members of the reserve corps of the Armed Forces of the United States or the National Guard or the Naval Militia who have been ordered to active military duty are eligible for paid military leave under Military and Veterans Code Section 395.02.

The Enhanced Military Leave Policy has been in effect since September 14, 2001, and is an additional paid leave of absence from work granted to employees who have been ordered to active military duty in support of Operations Noble Eagle and Enduring Freedom, or other operations that may arise as a result of terrorist attacks on the United States.

This leave is provided as temporary relief from financial hardship due to loss of pay and benefits for employees on active military duty as a result of terrorist attacks on the United States. This paid leave commences on the date which *Military and Veterans Code* benefits are exhausted and is equal to the employee's normal biweekly gross pay (excluding any overtime pay), offset by the amount of gross military pay for such duty, including all military allowances paid to the employee. In other words, the Enhanced Military Leave Policy ensures that an employee's pay and benefits are not less than what he or she would receive from their active District employment.

Neither federal nor state law requires an employer to continue payment for health insurance coverage for employees who are on military leave. However, the military provides health coverage to those on active duty and the District will continue providing health care insurance for dependents while an employee is on paid military leave. District employees will continue to receive other benefits, including annual leave, as provided under USERRA.

This additional paid leave shall cease on the date the employee is officially released from active military duty or the program end date of March 31, 2021, whichever occurs first.

Staff requests the Board approve extending coverage under the Enhanced Military Leave Policy to March 31, 2021.

General Counsel's Comments:

The Office of the General Counsel has reviewed the agenda sheet as presented to it and approves it

and the Enhanced Military Leave Policy for all Classified and Unclassified Employees as to form and legality.

Environmental Review:

The proposed Board direction or action, including without limitation, a resolution approving a military leave policy does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

In addition, the proposed Board direction or action complies with Section 35 of the Port Act which allows for the Board to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

Finally, the proposed Board direction or action does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or exclusion is not required.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachment(s):

Attachment A: Personnel Rules and Regulations - Rule 10.8 - Military Leave
Attachment B: Military Leave Policy