

1 House BILL NO. 114
 2 INTRODUCED BY Alvin Wayne Hagan Esq
 3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT MEMBERS OF THE ORGANIZED MILITIA ARE
 6 ENTITLED TO AN UNPAID LEAVE OF ABSENCE DURING ANY PERIOD OF STATE SERVICE DURING A
 7 STATE EMERGENCY AND ARE ENTITLED TO REEMPLOYMENT AFTER THE EMERGENCY; AND AMENDING
 8 SECTION 10-1-603, MCA ."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
 12 **Section 1.** Section 10-1-603, MCA, is amended to read:

13 "**10-1-603. ~~Depriving~~ Prohibition to deprive members of organized militia of employment --**
 14 **entitlement to unpaid leave of absence during state emergency.** (1) A person may not willfully deprive a
 15 member of the organized militia of ~~his~~ employment or prevent ~~his~~ the member from being employed or
 16 obstruct or annoy a member in respect to ~~his~~ the member's trade, business, or employment because ~~he is~~
 17 ~~a member~~ of membership in the organized militia.

18 (2) A person who serves in active state service in the organized militia in time of a disaster or an
 19 emergency declared by the proper authority of the state and not pursuant to orders issued under Title 10
 20 or 32 of the United States Code is entitled to a leave of absence from the person's civilian employment
 21 during the period of that service. Upon termination of service, the person is entitled to reemployment with
 22 the same seniority, status, pay, and vacation as the person would have had if the person had not been
 23 absent during the period of service. The leave of absence may not be deducted from any sick leave,
 24 vacation leave, or other leave, and reinstatement must be in the same position as or a comparable position
 25 to the position that the person held prior to the period of service. This subsection does not entitle an
 26 employee given leave and reinstatement pursuant to this subsection to any pay from the person's civilian
 27 employment pursuant to 10-1-604 or other law during the period of service.

28 ~~(2)(3)~~ (3) A person may not dissuade any person from enlisting in the organized militia by threatening
 29 to injure or injuring ~~his~~ the person's business, employment, or trade."

30 -END-

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

HOUSE BILL NO. 114

INTRODUCED BY AHNER, HAYNE, HARPER, EWER

BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

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

Section 1. Section 10-1-603, MCA, is amended to read:

"10-1-603. ~~Depriving~~ Prohibition to deprive members of organized militia of employment -- entitlement to unpaid leave of absence during state emergency. (1) A person may not willfully deprive a member of the organized militia of ~~his~~ employment or prevent ~~his~~ the member from being employed or obstruct or annoy a member in respect to ~~his~~ the member's trade, business, or employment because ~~he is~~ a member of membership in the organized militia.

(2) A person who serves in active state service in the organized militia in time of a disaster or an emergency declared by the proper authority of the state and not pursuant to orders issued under Title 10 or 32 of the United States Code is entitled to a leave of absence from the person's civilian employment during the period of that service. Upon termination of service, the person is entitled to reemployment with the same seniority, status, pay, and vacation as the person would have had if the person had not been absent during the period of service. HOWEVER, DURING THE PERIOD OF SERVICE, THE PERSON MAY OR MAY NOT ACCRUE VACATION LEAVE OR OTHER BENEFITS OFFERED BY THE EMPLOYER, AT THE OPTION OF THE EMPLOYER. The leave of absence may not be deducted from any sick leave, vacation leave, or other leave, and reinstatement must be in the same position as or a comparable position to the position that the person held prior to the period of service. This subsection does not entitle an A PUBLIC employee given leave and reinstatement pursuant to this subsection to any pay from the person's civilian employment pursuant to 10-1-604 or other law during the period of service. NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO PREVENT AN EMPLOYEE FROM VOLUNTARILY USING ACCRUED

1 VACATION LEAVE OR OTHER ALREADY EARNED BENEFITS DURING THE LEAVE OF ABSENCE.

2 ~~(2)~~(3) A person may not dissuade any person from enlisting in the organized militia by threatening
3 to injure or injuring ~~his~~ the person's business, employment, or trade."

4

5 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
6 APPROVAL.

7

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18 (2) A person who serves in active state service in the organized militia in time of a disaster or an
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(2) A person who serves in active state service in the organized militia in time of a disaster or an emergency declared by the proper authority of the state and not pursuant to orders issued under Title 10 or 32 of the United States Code is entitled to a leave of absence from the person's civilian employment during the period of that service. Upon termination of service, the person is entitled to reemployment with the same seniority, status, pay, and vacation as the person would have had if the person had not been absent during the period of service. HOWEVER, DURING THE PERIOD OF SERVICE, THE PERSON MAY OR MAY NOT ACCRUE VACATION LEAVE OR OTHER BENEFITS OFFERED BY THE EMPLOYER, AT THE OPTION OF THE EMPLOYER. The leave of absence may not be deducted from any sick leave, vacation leave, or other leave, and reinstatement must be in the same position as or a comparable position to the position that the person held prior to the period of service. This subsection does not entitle ~~an~~ A PUBLIC employee given leave and reinstatement pursuant to this subsection to any pay from the person's civilian employment pursuant to 10-1-604 or other law during the period of service. NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO PREVENT AN EMPLOYEE FROM VOLUNTARILY USING ACCRUED



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