



5-7-1990

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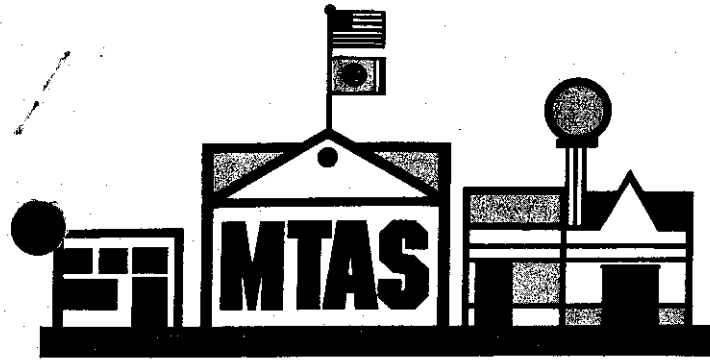
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Recommended Citation

Muscatello, Joe, "Cities Should Be Aware of Veteran's Reemployment Rights" (1990). *MTAS Publications: Technical Bulletins*.
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TECHNICAL BULLETIN

MUNICIPAL TECHNICAL ADVISORY SERVICE
THE UNIVERSITY OF TENNESSEE



IN COOPERATION WITH THE TENNESSEE MUNICIPAL LEAGUE

Bulletin No. 24

May 7, 1990

CITIES SHOULD BE AWARE OF VETERAN'S REEMPLOYMENT RIGHTS

by Joe Muscatello

Most cities have provisions in their personnel policies for employees who are involved in an Armed Forces reserve unit or are members of the National Guard. Most of the personnel provisions which guarantee rights of employees who continue military duty are derived from the Military Selective Service Act. This Act was originally passed in 1948, and has been subsequently amended. One amendment of the Military Selective Service Act that particularly affects local governments is Public Law 94-286. This amendment was passed on May 14, 1976. The amendment was enacted to include employees of state and local government, as the Congress deemed it necessary to extend coverage to those employees on the same basis as had previously existed for employees of private employers.

In essence the amendment provides protection for any employee who ENLISTS or is recalled to active duty. The law states that the employee shall be entitled to restoration or reemployment of his former position. For example, if your city has an employee who decides to enlist in the Armed Forces of the United States or the Public Health Service, and their active duty does not exceed four years, then upon such person's relief from active duty under honorable conditions, the employee is entitled to all of the reemployment rights and benefits provided under the Military Selective Service Act.

The employee who has applied for reemployment must:

1. Receive a certificate relating to satisfactory completion of military service not to exceed four years and,
2. Make application for reemployment within 90 days after such person is relieved from such training and service or from hospitalization continuing after discharge for a period of not more than one year.

The amendment provides in section 9(b)B of Public Law 94-286:

...if such position was in the employ of a State, or political subdivision thereof, or a private employer, such person shall: (i) if still qualified to perform the duties of such position, be restored by such employer or his successor in interest to such position or to a position of like seniority, status, and pay...

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Section 9(c)(1) & (2) states that:

Any person restored shall be so reemployed without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted, (enlisted), into such forces, and shall not be discharged from such position without cause within one year after such restoration or reemployment. The employee shall be reemployed as he would have enjoyed if such person had continued in such employment continuously from the time of such person's entering the Armed Forces until the time of such person's restoration to such employment or reemployment.

If an employee joins the Armed Forces or the Public Health Agency and, (1) returns within four years with an honorable discharge and, (2) applies for his/her former position within 90 days of the discharge from the service, the employee shall be entitled to his/her job with full restoration of benefits, pay raises, etc. **If your city has had any employee join the Armed Forces within the last four years, you should be aware that he/she is entitled to their former position along with any benefits that may have accrued during the military leave.**

Many cities may not be aware that the Military Selective Service Act applies to those employees who volunteer for active duty. Cities in Tennessee have recently experienced a request for reemployment from former employees who resigned their position with the city to join the armed forces. Upon completion of their active duty these former employees have requested reinstatement to their former positions with the city. Some cities were not financially prepared to meet this obligation.

FOR FURTHER INFORMATION

For further information on veteran's reemployment rights, contact the Federal Department of Labor in Nashville at 615/736-5452, or your MTAS Municipal Consultant in Knoxville at 615/974-0411; Nashville at 615/256-8141; or Jackson at 901/423-3710.

The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee's Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League in providing technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and wastewater management.

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E14-1050-00-001-90

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