



HOUSE BILL 254: Protect National Guard Reemployment Rights

2015-2016 General Assembly

Committee:
Introduced by:
Analysis of: S.L. 2015-161

Date:
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Staff Attorney

SUMMARY: *S.L. 2015-161 expands employment protections granted to members of the North Carolina National Guard to include members of the National Guards of other states.*

This act became effective October 1, 2015, and applies to denials of initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on or after that date.

CURRENT LAW: Article 16 of Chapter 127A of the General Statutes, "National Guard Employment Rights," provides members of the North Carolina National Guard who have been called up by the Governor to serve with a number of reemployment rights upon honorable release from State duty. Within five days after release from duty or from hospitalization continuing after release, a covered employee is required to make written application for reemployment with his or her previous employer. If still qualified for the previous employment, the employee must be restored to the previous position or one of like seniority, status and salary, unless the employer's circumstances make restoration unreasonable. If an employer fails to comply with reemployment requirements, then upon the employee's motion, the superior court for the district of the employer's place of business may require the employer to comply and to compensate the employee for any lost wages or benefits resulting from the unlawful failure to comply.

In addition, members of the North Carolina National Guard may not be denied initial employment, reemployment, retention in employment, promotion, or benefits on the basis of their National Guard membership. An employer that denies a member's initial employment, reemployment, retention in employment, promotion, or an employment benefit is considered to have violated the law unless the employer proves, by the greater weight of the evidence, that the same unfavorable action would have taken place absent the member's National Guard membership. The Commissioner of Labor is tasked with enforcement of these provisions.

BILL ANALYSIS: This act extends the employment rights currently granted to members of the North Carolina National Guard to those who have served as members of the National Guards of other states.

EFFECTIVE DATE: This act became effective October 1, 2015, and applies to denials of initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on or after that date.

