



HOUSE BILL 254: Protect National Guard Reemployment Rights

2015-2016 General Assembly

Committee:	House Homeland Security, Military, and Veterans Affairs	Date:	March 31, 2015
Introduced by:	Reps. G. Martin, Whitmire, Pendleton, Salmon	Prepared by:	Bill Patterson Jennifer Bedford Committee Counsel
Analysis of:	First Edition		

SUMMARY: *House Bill 254 would expand reemployment protections granted to members of the North Carolina National Guard to include members of the National Guards of other states.*

[As introduced, this bill was identical to S280, as introduced by Sens. J. Jackson, Soucek, which is currently in Senate Workforce and Economic Development.]

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. G.S. 127A-201.

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, and if still qualified for the previous employment, must be restored to that position or one of like seniority, status and salary, unless the employer's circumstances make restoration unreasonable. G.S. 127A-202.

It is State policy that individuals who serve the North Carolina National Guard should be protected from discrimination or retaliatory action from employers or prospective employers on the basis of their National Guard membership, service, or obligation. G.S. 127A-202.1(a). Members of the North Carolina National Guard shall not be denied initial employment, reemployment, and retention in employment, promotion, or benefits on the basis of their National Guard membership. G.S. 127A-202.1(b). An employer that denies a member's initial employment, reemployment, retention in employment, promotion, or an employment benefit is considered to have violated this section unless the employer proves, by the greater weight of the evidence, that the same unfavorable action would have taken place absent the member's status in the North Carolina National Guard. G.S. 127A-202.1(c). Employers are not required to pay salary or wages during a member's service. G.S. 127A-202.1(d). The Commissioner of Labor is tasked with enforcement of these provisions. 127A-202.1(e). This section also applies to members of the North Carolina National Guard who are called into active duty by the President, or other competent authority. 127A-202.1(f).

If an employer fails to comply with G.S. 127A-202, 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. G.S. 127A-203.

BILL ANALYSIS: House Bill 254 would extend the reemployment 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.



House Bill 254

Page 2

EFFECTIVE DATE: This act becomes 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.