STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1849 By: Caldwell

COMMITTEE SUBSTITUTE

An Act relating to the militia; amending 44 O.S. 1991, Section 209 and 72 O.S. 1991, Section 48, as amended by Section 1, Chapter 164, O.S.L. 1992 (72 O.S. Supp. 1993, Section 48), which relate to public employees in certain active military service; authorizing the employment of temporary replacements; limiting durational limit of protected military service; providing for certain salary; authorizing discretionary entitlement of certain private employees to certain benefits during terms of active or inactive service; authorizing damages for certain noncompliance; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 44 O.S. 1991, Section 209, is amended to read as follows:

Section 209. All officers and employees of the state, or a subdivision thereof, or a municipality therein, who are members of the National Guard, shall, when ordered by proper authority to active service, be entitled to a leave of absence from such civil employment for the period of such active service, without loss of status or efficiency rating. During the first twenty (20) calendar days of such leave of absence in any federal fiscal year, the officer or employee shall receive his full regular pay from the state, subdivision or municipality. During the remainder of such leave of absence in any federal fiscal year, the state, subdivision, or municipality may elect to pay the officer or employee an amount equal to the difference between his full regular pay from the state, subdivision or municipality and his National Guard pay. The durational limit of protected military service as provided for in this section shall not be less than

that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of his position during such absence, the authority having power to fill a vacancy in the position may appoint a substitute, to be known as acting incumbent, who shall qualify as required for the regular incumbent and shall receive the same salary as fixed by law or otherwise such salary as may be fixed by proper authority.

The Office of Personnel Management shall promulgate rules as necessary to implement the provisions of this section that relate to state employees.

SECTION 2. AMENDATORY 72 O.S. 1991, Section 48, as amended by Section 1, Chapter 164, O.S.L. 1992 (72 O.S. Supp. 1993, Section 48), is amended to read as follows:

Section 48. All officers and employees of the state, or a subdivision thereof, or a municipality therein, who are members, either officers or enlisted, of the Reserve Components, to include the Army and Air National Guard and the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves, or any other component of the Armed Forces of the United States, shall, when ordered by the proper authority to active or inactive duty or service, be entitled to a leave of absence from such civilian employment for the period of such service without loss of status or seniority. During the first twenty (20) regularly scheduled work days of such leave of absence in any federal fiscal year, the officer or employee shall receive his full regular pay from the state, subdivision or municipality. During the remainder of such leave of absence in any federal fiscal year, the state, subdivision, or municipality may elect to pay the officer or employee an amount equal to the difference between his full regular pay from the state, subdivision or municipality and his military pay. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law. If it is necessary in the public interest to provide for the performance of the duties of his position during such absence, the authority having power to fill a vacancy in the position may appoint a substitute, to be known as acting incumbent, who shall

qualify as required for the regular incumbent and shall receive the same salary as fixed by law or otherwise such salary as may be fixed by proper authority.

The Office of Personnel Management shall promulgate rules as necessary to implement the provisions of this section that relate to state employees.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 48.1 of Title 72, unless there is created a duplication in numbering, reads as follows:

All officers and employees of any employer in the private sector, who are members, either officers or enlisted, of the Reserve Components, to include the Army and Air National Guard and the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves, or any other component of the Armed Forces of the United States, shall, when ordered by the proper authority to active or inactive duty or service, be entitled to a leave of absence from such private civilian employment for the period of such service without loss of status or seniority. During such leave of absence in any federal fiscal year, the employer in the private sector may elect to pay the officer or employee an amount equal to the difference between his full regular pay from the employer in the private sector and his military pay. The durational limit of protected military service as provided for in this section shall not be less than that provided by federal law.

If any employer in the private sector fails to comply with the provisions of this section, the officer or employee may bring an action in district court for actual and compensatory damages for such noncompliance and may be granted such relief as is just and proper under the circumstances.

SECTION 4. This act shall become effective July 1, 1994.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.