

## Assembly Bill No. 392

### CHAPTER 361

An act to add Section 395.10 to the Military and Veterans Code, relating to military benefits, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 9, 2007. Filed with  
Secretary of State October 9, 2007.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 392, Lieu. Military service: benefits.

Existing law provides certain benefits for qualifying members of the Armed Forces of the United States, National Guard, and Reserves.

This bill would require a qualified employer to allow a qualified employee who is a spouse of a qualified member of the Armed Forces, National Guard, or Reserves to take up to 10 days of unpaid leave during a qualified leave period, as provided.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 395.10 is added to the Military and Veterans Code, to read:

395.10. (a) Notwithstanding any other provision of law, a qualified employer shall allow a qualified employee to take up to 10 days of unpaid leave during a qualified leave period.

(b) For purposes of this section:

(1) "Period of military conflict" means either of the following:

(A) A period of war declared by the United States Congress.

(B) A period of deployment for which a member of a reserve component is ordered to active duty pursuant to either of the following:

(i) Sections 12301 and 12302 of Title 10 of the United States Code.

(ii) Title 32 of the United States Code.

(2) "Qualified employee" means a person who satisfies all of the following:

(A) Is the spouse of a qualified member.

(B) Performs service for hire for an employer for an average of 20 or more hours per week, but does not include an independent contractor.

(C) Provides the qualified employer with notice, within two business days of receiving official notice that the qualified member will be on leave

from deployment, of his or her intention to take the leave provided for in subdivision (a).

(D) Submits written documentation to the qualified employer certifying that the qualified member will be on leave from deployment during the time the leave provided for in subdivision (a) is requested.

(3) “Qualified employer” includes any individual, corporation, company, firm, state, city, county, city and county, municipal corporation, district, public authority, or any other governmental subdivision, that employs 25 or more employees.

(4) “Qualified member” means a person who is any of the following:

(A) A member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States.

(B) A member of the National Guard who has been deployed during a period of military conflict.

(C) A member of the Reserves who has been deployed during a period of military conflict.

(5) “Qualified leave period” means the period during which the qualified member is on leave from deployment during a period of military conflict.

(c) A qualified employer shall not retaliate against a qualified employee for requesting or taking the leave provided for in this section.

(d) The leave provided for in this section shall not affect or prevent a qualified employer from allowing a qualified employee to take a leave that the qualified employee is otherwise entitled to take.

(e) This section shall not affect a qualified employee’s rights with respect to any other employee benefit provided for in other laws.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to serve the families of those troops currently serving in military conflicts in Iraq and Afghanistan, and to assure that these families are able to spend time together during the qualified member’s leave from deployment, it is necessary that this act take effect immediately.