

1 AN ACT concerning service members.

2 WHEREAS, The persistent use of the reserve components as an
3 operational force in continuous support of active duty has
4 reinforced the need for robust service member employment
5 protections; and

6 WHEREAS, Extreme weather events require State activations
7 of the National Guard to save lives and protect property; and

8 WHEREAS, Terror threats require increased dependency on
9 reserve components; and

10 WHEREAS, The Uniformed Services Employment and
11 Reemployment Rights Act (38 U.S.C. 4301-4335) establishes the
12 minimal legal protections of service member employees; and

13 WHEREAS, This Act is meant to consolidate and clarify
14 existing State employment rights and protections; therefore

15 **Be it enacted by the People of the State of Illinois,**
16 **represented in the General Assembly:**

17 Article 1. General Provisions.

18 Section 1-1. Short title; references to Act.

1 (a) Short title. This Act may be cited as the Service
2 Member Employment and Reemployment Rights Act.

3 (b) References to Act. This Act may be referred to as
4 ISERRA.

5 Section 1-5. Legislative intent. As a guide to the
6 interpretation and application of this Act, the public policy
7 of the State is declared as follows:

8 (1) The General Assembly recognizes the common public
9 interest in safeguarding and promoting military service
10 by:

11 (A) minimizing disadvantages to military service
12 in civilian careers;

13 (B) providing for prompt reemployment and
14 protections of service members in a manner that
15 minimizes disruption to the lives of such employees,
16 their employers, and co-workers;

17 (C) prohibiting discrimination against and
18 interference with military service; and

19 (D) ensuring that public entities are model
20 employers of reserve components by providing
21 additional benefits.

22 (2) This law should be interpreted as comprising a
23 foundation of protections guaranteed by this Act;
24 therefore, nothing in this Act shall supersede, nullify, or
25 diminish any federal or State law, including any local law

1 or ordinance, contract, agreement, policy, plan, practice,
2 or other matter that establishes a right or benefit that is
3 more beneficial to, or is in addition to, a right or
4 benefit provided for in this Act. The benefits and
5 protections under this Act cannot be diminished.

6 (3) This Act shall be liberally construed so as to
7 effectuate the purposes and provisions of this Act for the
8 benefit of the service member who has set aside civilian
9 pursuits to serve his or her country or this State in a
10 time of need. Such sacrifice benefits everyone but is made
11 by relatively few.

12 (4) The new service member benefits under this Act are
13 in force on and after the effective date of this Act.

14 Section 1-10. Definitions. As used in this Act:

15 "Accrue" means to accumulate in regular or increasing
16 amounts over time subject to customary allocation of cost.

17 "Active duty" means any full-time military service
18 regardless of length or voluntariness including, but not
19 limited to, annual training, full-time National Guard duty, and
20 State active duty. "Active duty" does not include any form of
21 inactive duty service such as drill duty or muster duty.
22 "Active duty", unless provided otherwise, includes active duty
23 without pay.

24 "Active service" means all forms of active and inactive
25 duty regardless of voluntariness including, but not limited to,

1 annual training, active duty for training, initial active duty
2 training, overseas training duty, full-time National Guard
3 duty, active duty other than training, State active duty,
4 mobilizations, and muster duty. "Active service", unless
5 provided otherwise, includes active service without pay.

6 "Active service" includes:

7 (1) Reserve component voluntary active service means
8 service under one of the following authorities:

9 (A) any duty under 32 U.S.C. 502(f) (1) (B);

10 (B) active guard reserve duty, operational
11 support, or additional duty under 10 U.S.C. 12301(d) or
12 32 U.S.C. 502(f) (1) (B);

13 (C) funeral honors under 10 U.S.C. 12503 or 32
14 U.S.C. 115;

15 (D) duty at the National Guard Bureau under 10
16 U.S.C. 12402;

17 (E) unsatisfactory participation under 10 U.S.C.
18 10148 or 10 U.S.C. 12303;

19 (F) discipline under 10 U.S.C. 802(d);

20 (G) extended active duty under 10 U.S.C. 12311; and

21 (H) reserve program administrator under 10 U.S.C.
22 10211.

23 (2) Reserve component involuntary active service
24 includes, but is not limited to, service under one of the
25 following authorities:

26 (A) annual training or drill requirements under 10

- 1 U.S.C. 10147, 10 U.S.C. 12301(b) or 32 U.S.C. 502(a) .
- 2 (B) additional training duty or other duty under 32
- 3 U.S.C. 502(f) (1) (A) ;
- 4 (C) pre-planned or pre-programmed combatant
- 5 commander support under 10 U.S.C. 12304b;
- 6 (D) mobilization under 10 U.S.C. 12301(a) or 10
- 7 U.S.C. 12302;
- 8 (E) presidential reserve call-up under 10 U.S.C.
- 9 12304;
- 10 (F) emergencies and natural disasters under 10
- 11 U.S.C. 12304a or 14 U.S.C. 712;
- 12 (G) muster duty under 10 U.S.C. 12319;
- 13 (H) retiree recall under 10 U.S.C. 688;
- 14 (I) captive status under 10 U.S.C. 12301(g) ;
- 15 (J) insurrection under 10 U.S.C. 331, 10 U.S.C.
- 16 332, or 10 U.S.C. 12406;
- 17 (K) pending line of duty determination for
- 18 response to sexual assault under 10 U.S.C. 12323; and
- 19 (L) initial active duty for training under 10
- 20 U.S.C. 671.

21 Reserve component active service not listed in paragraph

22 (1) or (2) shall be considered involuntary active service under

23 paragraph (2) .

24 "Active service without pay" means active service

25 performed under any authority in which base pay is not received

26 regardless of other allowances.

1 "Annual training" means any active duty performed under
2 Section 10147 or 12301(b) of Title 10 of the United States Code
3 or under Section 502(a) of Title 32 of the United States Code.

4 "Base pay" means the main component of military pay,
5 whether active or inactive, based on rank and time in service.
6 It does not include the addition of conditional funds for
7 specific purposes such as allowances, incentive and special
8 pay. Base pay, also known as basic pay, can be determined by
9 referencing the appropriate military pay chart covering the
10 time period in question located on the federal Defense Finance
11 and Accounting Services website or as reflected on a federal
12 Military Leave and Earnings Statement.

13 "Benefits" includes, but is not limited to, the terms,
14 conditions, or privileges of employment, including any
15 advantage, profit, privilege, gain, status, account, or
16 interest, including wages or salary for work performed, that
17 accrues by reason of an employment contract or agreement or an
18 employer policy, plan, or practice and includes rights and
19 benefits under a pension plan, a health plan, an employee stock
20 ownership plan, insurance coverage and awards, bonuses,
21 severance pay, supplemental unemployment benefits, vacations,
22 and the opportunity to select work hours or location of
23 employment.

24 "Differential compensation" means pay due when the
25 employee's daily rate of compensation for military service is
26 less than his or her daily rate of compensation as a public

1 employee.

2 "Employee" means anyone employed by an employer.

3 "Employee" includes any person who is a citizen, national, or
4 permanent resident alien of the United States employed in a
5 workplace that the State has legal authority to regulate
6 business and employment. "Employee" does not include an
7 independent contractor.

8 "Employer" means any person, institution, organization, or
9 other entity that pays salary or wages for work performed or
10 that has control over employment opportunities, including:

11 (1) a person, institution, organization, or other
12 entity to whom the employer has delegated the performance
13 of employment-related responsibilities;

14 (2) an employer of a public employee;

15 (3) any successor in interest to a person, institution,
16 organization, or other entity referred to under this
17 definition; and

18 (4) a person, institution, organization, or other
19 entity that has been denied initial employment in violation
20 of Section 5-15.

21 "Inactive duty" means inactive duty training, including
22 drills, consisting of regularly scheduled unit training
23 assemblies, additional training assemblies, periods of
24 appropriate duty or equivalent training, and any special
25 additional duties authorized for reserve component personnel
26 by appropriate military authority. "Inactive duty" does not

1 include active duty.

2 "Military leave" means a furlough or leave of absence while
3 performing active service. It cannot be substituted for accrued
4 vacation, annual, or similar leave with pay except at the sole
5 discretion of the service member employee. It is not a benefit
6 of employment that is requested but a legal requirement upon
7 receiving notice of pending military service.

8 "Military service" means:

9 (1) Service in the Armed Forces of the United States,
10 the National Guard of any state or territory regardless of
11 status, and the State Guard as defined in the State Guard
12 Act. "Military service", whether active or reserve,
13 includes service under the authority of U.S.C. Titles 10,
14 14, or 32, or State active duty.

15 (2) Service in a federally recognized auxiliary of the
16 United States Armed Forces when performing official duties
17 in support of military or civilian authorities as a result
18 of an emergency.

19 (3) A period for which an employee is absent from a
20 position of employment for the purpose of medical or dental
21 treatment for a condition, illness, or injury sustained or
22 aggravated during a period of active service in which
23 treatment is paid by the United States Department of
24 Defense Military Health System.

25 "Public employee" means any person classified as a
26 full-time employee of the State of Illinois, a unit of local

1 government, a public institution of higher education as defined
2 in Section 1 of the Board of Higher Education Act, or a school
3 district, other than an independent contractor.

4 "Reserve component" means the reserve components of
5 Illinois and the United States Armed Forces regardless of
6 status.

7 "Service member" means any person who is a member of a
8 military service.

9 "State active duty" means full-time State-funded military
10 duty under the command and control of the Governor and subject
11 to the Military Code of Illinois.

12 "Unit of local government" means any city, village, town,
13 county, or special district.

14 Section 1-15. Differential compensation.

15 (a) As used in this Section, "work days" are the actual
16 number of days the employee would have worked during the period
17 of military leave but for the service member's military
18 obligation. "Work days" are tabulated without regard for the
19 number of hours in a work day. Work hours that extend into the
20 next calendar day count as 2 work days.

21 (b) Differential compensation under this Act is calculated
22 on a daily basis and only applies to days in which the employee
23 would have otherwise been scheduled or required to work as a
24 public employee. Differential compensation shall be paid to all
25 forms of active service except active service without pay.

1 Differential compensation is calculated as follows:

2 (1) To calculate differential compensation, subtract
3 the daily rate of compensation for military service from
4 the daily rate of compensation as a public employee.

5 (2) To calculate the daily rate of compensation as a
6 public employee, divide the employee's regular
7 compensation as a public employee during the pay period by
8 the number of work days in the pay period.

9 (3) To calculate the daily rate of compensation for
10 military service, divide the employee's base pay for the
11 applicable military service by the number of calendar days
12 in the month the service member was paid by the military.
13 For purposes of inactive duty, the daily rate of
14 compensation for military service is calculated in
15 accordance with the applicable drill pay chart issued by
16 Defense Finance and Accounting Services.

17 Section 1-20. Independent contractors. Whether an
18 individual is an employee or independent contractor under this
19 Act is determined based on the following factors:

20 (1) the extent of the employer's right to control the
21 manner in which the individual's work is to be performed;

22 (2) the opportunity for profit or loss that depends
23 upon the individual's managerial skill;

24 (3) any investment in equipment or materials required
25 for the individual's tasks, or his or her employment of

1 helpers;

2 (4) whether the service the individual performs
3 requires a special skill;

4 (5) the degree of permanence of the individual's
5 working relationship; and

6 (6) whether the service the individual performs is an
7 integral part of the employer's business.

8 No single one of these factors is controlling, but all are
9 relevant to determining whether an individual is an employee or
10 an independent contractor.

11 Article 5. Service Member Employment Protections.

12 Section 5-5. Basic Protections. This Section incorporates
13 Sections 4304, 4312, 4313, 4316, 4317, and 4318 of the
14 Uniformed Services Employment and Reemployment Rights Act
15 under Title 38 of the United States Code, as may be amended,
16 including case law and regulations promulgated under that Act,
17 subject to the following:

18 (1) For the purposes of this Section, all employment
19 rights shall be extended to all employees in military
20 service under this Act, unless otherwise stated.

21 (2) Military leave. A service member employee is not
22 required to get permission from his or her employer for
23 military leave. The service member employee is only
24 required to give such employer advance notice of pending

1 service. This advance notice entitles a service member
2 employee to military leave.

3 An employer may not impose conditions for military
4 leave, such as work shift replacement, not otherwise
5 imposed by this Act or other applicable law. This paragraph
6 shall not be construed to prevent an employer from
7 providing scheduling options to employees in lieu of paid
8 military leave.

9 A service member employee is not required to
10 accommodate his or her employer's needs as to the timing,
11 frequency, or duration of military leave; however,
12 employers are permitted to bring concerns over the timing,
13 frequency, or duration of military leave to the attention
14 of the appropriate military authority. The accommodation
15 of these requests are subject to military law and
16 discretion.

17 Military necessity as an exception to advance notice of
18 pending military leave for State active duty will be
19 determined by appropriate State military authority and is
20 not subject to judicial review.

21 For purposes of notice of pending military service
22 under paragraphs (2) or (3) of the definition of "military
23 service" under Section 1-10, an employer may require notice
24 by appropriate military authority on official letterhead.
25 For purposes of this paragraph, notice exceptions do not
26 apply.

1 (3) Service, efficiency, and performance rating. A
2 service member employee who is absent on military leave
3 shall, minimally, for the period of military leave, be
4 credited with the average of the efficiency or performance
5 ratings or evaluations received for the 3 years immediately
6 before the absence for military leave. Additionally, the
7 rating shall not be less than the rating that he or she
8 received for the rated period immediately prior to his or
9 her absence on military leave. In computing seniority and
10 service requirements for promotion eligibility or any
11 other benefit of employment, the period of military duty
12 shall be counted as civilian service. This paragraph does
13 not apply to probationary periods.

14 (4) State active duty ineligible discharge. For
15 purposes of State active duty, a disqualifying discharge or
16 separation will be the State equivalent under the Military
17 Code of Illinois for purposes of ineligibility of
18 reemployment under the Uniformed Services Employment and
19 Reemployment Rights Act as determined by appropriate State
20 military authority.

21 (5) A retroactive upgrade of a disqualifying discharge
22 or release will restore reemployment rights providing the
23 service member employee otherwise meets this Act's
24 eligibility criteria.

25 Section 5-10. Additional benefits for public employee

1 members of a reserve component.

2 (a) Concurrent compensation. During periods of military
3 leave for annual training, public employees shall continue to
4 receive full compensation as a public employee for up to 30
5 days per calendar year and military leave for purposes of
6 receiving concurrent compensation may be performed
7 nonsynchronously.

8 (b) Differential Compensation. During periods of military
9 leave for active service, public employees shall receive
10 differential compensation subject to the following:

11 (1) Public employees may elect the use of accrued
12 vacation, annual, or similar leave with pay in lieu of
13 differential compensation during any period of military
14 leave.

15 (2) Differential compensation for voluntary active
16 service under Section 1-10 is limited to 60 work days in a
17 calendar year.

18 (3) Differential compensation shall not be paid for
19 active service without pay.

20 (4) Public employees who have exhausted concurrent
21 compensation under subsection (a) of Section 5-10 in a
22 calendar year shall receive differential compensation when
23 authorized under subsection (b) of Section 5-10 in the same
24 calendar year.

25 (c) Employer-based health plan benefits shall continue in
26 accordance with Section 5-5 of this Act, except the employer's

1 share of the full premium and administrative costs shall
2 continue to be paid by the employer for active duty.

3 (d) In the event that 20% or more employees of a unit of
4 local government are mobilized under 10 U.S.C. 12301(a), 10
5 U.S.C. 12302, 10 U.S.C. 12304, or 10 U.S.C. 12304a, or 14
6 U.S.C. 712 concurrently, additional benefits under this
7 Section are not required without funding for that purpose.

8 Section 5-15. Prohibitions on Discrimination. For the
9 purposes of this Section, Section 4311 of the federal Uniformed
10 Services Employment and Reemployment Rights Act entitled
11 Discrimination Against Persons Who Serve in the Uniformed
12 Services and Acts of Reprisal Prohibited and the regulations
13 promulgated under that Act are incorporated.

14 Section 5-20. Notice of rights and duties.

15 (a) Each employer shall provide to employees entitled to
16 rights and benefits under this Act a notice of the rights,
17 benefits, and obligations of service member employees under
18 this Act.

19 (b) The requirement for the provision of notice under this
20 Act may be met by the posting of the notice where the
21 employer's customarily place notices for employees.

22 Article 10. Violations.

1 Section 10-5. Violations. Any violation of Article 5 is a
2 violation of this Act.

3 Article 15. Compliance.

4 Section 15-5. Private right enforcement. A service member
5 may bring a private civil action for enforcement of a violation
6 of this Act. A violation of Section 5-20 may not be a sole
7 basis for a civil action under this Act.

8 Section 15-10. Circuit court actions by the Attorney
9 General.

10 (a) If the Attorney General has reasonable cause to believe
11 that any employer is engaged in a violation of this Act, then
12 the Attorney General may commence a civil action in the name of
13 the People of the State, as *parens patriae* on behalf of persons
14 within the State to enforce the provisions of this Act in any
15 appropriate circuit court.

16 (b) Prior to initiating a civil action, the Attorney
17 General shall conduct a preliminary investigation to determine
18 whether there is reasonable cause to believe that any employer
19 is engaged in a violation of this Act and whether the dispute
20 can be resolved without litigation. In conducting this
21 investigation, the Attorney General may:

22 (1) require the individual or entity to file a
23 statement or report in writing under oath or otherwise, as

1 to all information the Attorney General may consider
2 necessary;

3 (2) examine under oath any person alleged to have
4 participated in or with knowledge of the alleged violation;
5 or

6 (3) issue subpoenas or conduct hearings in aid of any
7 investigation.

8 (c) Service by the Attorney General of any notice requiring
9 a person to file a statement or report, or of a subpoena upon
10 any person, shall be made:

11 (1) personally by delivery of a duly executed copy
12 thereof to the person to be served or, if a person is not a
13 natural person, in the manner provided by the Civil
14 Procedure law when a complaint is filed; or

15 (2) by mailing by certified mail a duly executed copy
16 thereof to the person to be served at his last known abode
17 or principal place of business within this State.

18 (d) In lieu of a civil action, the individual or entity
19 alleged to have violated this Act may enter into an Assurance
20 of Voluntary Compliance with respect to the alleged violation.

21 (e) Whenever any person fails to comply with any subpoena
22 issued under this Section or whenever satisfactory copying or
23 reproduction of any material requested in an investigation
24 cannot be done and the person refuses to surrender the
25 material, the Attorney General may file in any appropriate
26 circuit court, and serve upon the person, a petition for a

1 court order for the enforcement of the subpoena or other
2 request.

3 Any person who has received a subpoena issued under
4 subsection (b) may file in the appropriate circuit court, and
5 serve upon the Attorney General, a petition for a court order
6 to modify or set aside the subpoena or other request. The
7 petition must be filed either: (1) within 20 days after the
8 date of service of the subpoena or at any time before the
9 return date specified in the subpoena, whichever date is
10 earlier, or (2) within a longer period as may be prescribed in
11 writing by the Attorney General.

12 The petition shall specify each ground upon which the
13 petitioner relies in seeking relief under this subsection and
14 may be based upon any failure of the subpoena to comply with
15 the provisions of this Section or upon any constitutional or
16 other legal right or privilege of the petitioner. During the
17 pendency of the petition in the court, the court may stay, as
18 it deems proper, the running of the time allowed for compliance
19 with the subpoena or other request, in whole or in part, except
20 that the petitioner shall comply with any portion of the
21 subpoena or other request not sought to be modified or set
22 aside.

23 Section 15-20. Remedies.

24 (a) A court in its discretion may award actual damages or
25 any other relief that the court deems proper.

1 Punitive damages are not authorized except in cases
2 involving violations under Section 5-15 and may not exceed
3 \$50,000 per violation.

4 Reasonable attorney's fees may be awarded to the prevailing
5 party, however, prevailing defendants may only receive
6 attorney's fees if the court makes a finding that the plaintiff
7 acted in bad faith.

8 (b) The Attorney General may bring an action in the name of
9 the People of the State against any employer to restrain by
10 preliminary or permanent injunction the use of any practice
11 that violates this Act. In such an action, the court may award
12 restitution to a service member. In addition, the court may
13 assess a civil penalty not to exceed \$5,000 per violation of
14 this Act.

15 If a court orders a party to make payments to the Attorney
16 General and the payments are to be used for the operations of
17 the Office of the Attorney General or a party agrees, in an
18 Assurance of Voluntary Compliance under this Act, to make
19 payment to the Attorney General for the operations of the
20 Office of the Attorney General, then moneys shall be deposited
21 into the Attorney General Court Ordered and Voluntary
22 Compliance Payment Projects Fund. Moneys in the Fund shall be
23 used, subject to appropriation, for the performance of any
24 function pertaining to the exercise of the duties of the
25 Attorney General including, but not limited to, enforcement of
26 any law of this State and conducting public education programs;

1 however, any moneys in the Fund that are required by the court
2 or by an agreement to be used for a particular purpose shall be
3 used for that purpose.

4 In any action brought under the provisions of this Act, the
5 Attorney General is entitled to recover costs.

6 Article 20. Home Rule.

7 Section 20-5. Home Rule. A home rule unit may not regulate
8 its employees in a manner that is inconsistent with the
9 regulation of employees by the State under this Act. This
10 Section is a limitation under subsection (i) of Section 6 of
11 Article VII of the Illinois Constitution on the concurrent
12 exercise by home rule units of powers and functions exercised
13 by the State.

14 Article 25. Statute of Limitations.

15 Section 25-5. Inapplicability of Statute of Limitations.
16 No statute of limitations applies to any private right or
17 Attorney General action under this Act.

18 Article 30. Illinois Service Member Employment and
19 Reemployment Rights Act Advocate.

20 Section 30-5. ISERRA Advocate.

1 Article 40. Coverage Under Special Circumstances.

2 Section 40-5. Governor's election. In a time of national or
3 State emergency, the Governor has the authority to designate
4 any category of persons as entitled to protections under this
5 Act.

6 Article 90. Amendatory Provisions.

7 (5 ILCS 325/Act rep.)

8 Section 90-5. The Military Leave of Absence Act is
9 repealed.

10 (5 ILCS 330/Act rep.)

11 Section 90-10. The Public Employee Armed Services Rights
12 Act is repealed.

13 Section 90-15. The Military Code of Illinois is amended by
14 changing the heading of Article V-A as follows:

15 (20 ILCS 1805/Art. V-A heading)

16 ARTICLE V-A. NATIONAL GUARD SUPPLEMENTAL ~~EMPLOYMENT~~ RIGHTS

17 (20 ILCS 1805/22-10 rep.)

18 (20 ILCS 1805/30.1 rep.)

1 (20 ILCS 1805/30.5 rep.)

2 (20 ILCS 1805/30.10 rep.)

3 (20 ILCS 1805/30.20 rep.)

4 (20 ILCS 1805/30.15 rep.)

5 Section 90-20. The Military Code of Illinois is amended by
6 repealing Sections 22-10, 30.1, 30.5, 30.10, 30.20, and 30.15.

7 (20 ILCS 1815/79 rep.)

8 Section 90-25. The State Guard Act is amended by repealing
9 Section 79.

10 (50 ILCS 120/Act rep.)

11 Section 90-30. The Municipal Employees Military Active
12 Duty Act is repealed.

13 (50 ILCS 140/Act rep.)

14 Section 90-35. The Local Government Employees Benefits
15 Continuation Act is repealed.

16 Section 90-40. The Metropolitan Transit Authority Act is
17 amended by changing Section 29 as follows:

18 (70 ILCS 3605/29) (from Ch. 111 2/3, par. 329)

19 Sec. 29. If the Authority acquires a transportation system
20 in operation by a public utility, all of the employees in the
21 operating and maintenance divisions of such public utility and

1 all other employees except executive and administrative
2 officers and employees, shall be transferred to and appointed
3 as employees of the Authority, subject to all rights and
4 benefits of this Act, and these employees shall be given
5 seniority credit in accordance with the records and labor
6 agreements of the public utility. Employees who left the employ
7 of such a public utility to enter the military service of the
8 United States shall have the same rights as to the Authority,
9 under the provisions of the Service Member Employment and
10 Reemployment Rights Act ~~Service Member's Employment Tenure Act~~
11 as they would have had thereunder as to such public utility.
12 After such acquisition the authority shall be required to
13 extend to such former employees of such public utility only the
14 rights and benefits as to pensions and retirement as are
15 accorded other employees of the Authority.

16 (Source: P.A. 93-828, eff. 7-28-04.)

17 Section 90-45. The Local Mass Transit District Act is
18 amended by changing Section 3.5 as follows:

19 (70 ILCS 3610/3.5) (from Ch. 111 2/3, par. 353.5)

20 Sec. 3.5. If the district acquires a mass transit facility,
21 all of the employees in such mass transit facility shall be
22 transferred to and appointed as employees of the district,
23 subject to all rights and benefits of this Act, and these
24 employees shall be given seniority credit in accordance with

1 the records and labor agreements of the mass transit facility.
2 Employees who left the employ of such a mass transit facility
3 to enter the military service of the United States shall have
4 the same rights as to the district, under the provisions of the
5 Service Member Employment and Reemployment Rights, Act ~~Service~~
6 ~~Member's Employment Tenure Act~~ as they would have had
7 thereunder as to such mass transit facility. After such
8 acquisition the district shall be required to extend to such
9 former employees of such mass transit facility only the rights
10 and benefits as to pensions and retirement as are accorded
11 other employees of the district.

12 (Source: P.A. 93-590, eff. 1-1-04; 93-828, eff. 7-28-04.)

13 Section 90-50. The Service Member's Employment Tenure Act
14 is amended by changing Sections 1, 2, and 3 as follows:

15 (330 ILCS 60/1) (from Ch. 126 1/2, par. 29)

16 Sec. 1. Short title. This Act may be cited as the Service
17 Member's ~~Employment~~ Tenure Act.

18 (Source: P.A. 93-828, eff. 7-28-04.)

19 (330 ILCS 60/2) (from Ch. 126 1/2, par. 30)

20 Sec. 2. As a guide to the interpretation and application of
21 this Act, the public policy of the State is declared as
22 follows:

23 As a constituent commonwealth of the United States of

1 America, the State of Illinois is dedicated to the urgent task
2 of strengthening and expediting the national defense under the
3 emergent conditions which are threatening the peace and
4 security of this nation. It is the considered judgment of the
5 General Assembly that the service members ~~wage earners~~ of
6 Illinois who respond to their country's call to service in this
7 time of crisis, are deserving of every protection ~~of their~~
8 ~~employment status which~~ the law may afford, and that repetition
9 of the regrettable experience existing after the great war of
10 1917-1918, wherein returning service men were subjected to
11 serious discrimination with regard to tenure and other rights
12 ~~of employment~~, must be avoided, since any form of economic
13 discrimination against returning service men is a serious
14 menace to the entire social fabric of the United States of
15 America and the State of Illinois.

16 ~~By safeguarding the employment and the rights and~~
17 ~~privileges inhering in the employment contract, of service men,~~
18 ~~the State of Illinois encourages its workers to participate to~~
19 ~~the fullest extent in the national defense program and thereby~~
20 ~~heightens the contribution of our State to the protection of~~
21 ~~our heritage of liberty and democracy.~~

22 (Source: Laws 1941, vol. 1, p. 1202.)

23 (330 ILCS 60/3) (from Ch. 126 1/2, par. 31)

24 Sec. 3. Definitions. The term "persons in the military
25 service", as used in this Act, shall include the following

1 persons and no others: All members of the Army of the United
2 States, the United States Navy, the Marine Corps, the Air
3 Force, the Coast Guard and all members of the State Militia
4 called into the service or training of the United States of
5 America or of this State. The term "military service", as used
6 in this Act, shall signify Federal service or active duty with
7 any branch of service heretofore referred to as well as
8 training or education under the supervision of the United
9 States preliminary to induction into the military service. The
10 term "military service" also includes any period of active duty
11 with the State of Illinois pursuant to the orders of the
12 President of the United States or the Governor. The term
13 "military service" also includes any period of active duty by
14 members of the National Guard who are called to active duty
15 pursuant to an order of the Governor of this State or an order
16 of a governor of any other state as provided by law. The term
17 "military service" also includes the full-time duties of the
18 Adjutant General and Assistant Adjutants General under Section
19 17 of the Military Code of Illinois.

20 The foregoing definitions shall apply both to voluntary
21 enlistment and to induction into service by draft or
22 conscription.

23 ~~The term "political subdivision", as used in this Act,~~
24 ~~means any unit of local government or school district.~~

25 (Source: P.A. 99-88, eff. 7-21-15; 99-557, eff. 1-1-17.)

1 (330 ILCS 60/4 rep.)

2 (330 ILCS 60/4.5 rep.)

3 (330 ILCS 60/5 rep.)

4 (330 ILCS 60/6 rep.)

5 (330 ILCS 60/7 rep.)

6 (330 ILCS 60/8 rep.)

7 Section 90-55. The Service Member's Employment Tenure Act
8 is amended by repealing Sections 4, 4.5, 5, 6, 7, and 8.

9 Section 90-60. The Illinois Service Member Civil Relief Act
10 is amended by changing Section 10 as follows:

11 (330 ILCS 63/10)

12 Sec. 10. Definitions. In this Act:

13 "Military service" means any full-time training or duty, no
14 matter how described under federal or State law, for which a
15 service member is ordered to report by the President, Governor
16 of a state, commonwealth, or territory of the United States, or
17 other appropriate military authority.

18 "Primary occupant" means the current residential customer
19 of record in whose name the utility company or electric
20 cooperative account is registered.

21 "Service member" means a resident of Illinois who is a
22 member of any component of the U.S. Armed Forces or the
23 National Guard of any state, the District of Columbia, a
24 commonwealth, or a territory of the United States.

1 "State Active Duty" has the same meaning ascribed to that
2 term in Section 1-10 of the Service Member Employment and
3 Reemployment Rights Act ~~30.10 of the Military Code of Illinois.~~

4 "Training or duty under Title 32 of the United States Code"
5 has the same meaning ascribed to that term in Section 30.10 of
6 the Military Code of Illinois.

7 (Source: P.A. 97-913, eff. 1-1-13.)

8 Section 90-65. The Criminal Code of 2012 is amended by
9 changing Section 17-6 as follows:

10 (720 ILCS 5/17-6) (from Ch. 38, par. 17-6)

11 Sec. 17-6. State benefits fraud.

12 (a) A person commits State benefits fraud when he or she
13 obtains or attempts to obtain money or benefits from the State
14 of Illinois, from any political subdivision thereof, or from
15 any program funded or administered in whole or in part by the
16 State of Illinois or any political subdivision thereof through
17 the knowing use of false identification documents or through
18 the knowing misrepresentation of his or her age, place of
19 residence, number of dependents, marital or family status,
20 employment status, financial status, or any other material fact
21 upon which his eligibility for or degree of participation in
22 any benefit program might be based.

23 (b) Notwithstanding any provision of State law to the
24 contrary, every application or other document submitted to an

1 agency or department of the State of Illinois or any political
2 subdivision thereof to establish or determine eligibility for
3 money or benefits from the State of Illinois or from any
4 political subdivision thereof, or from any program funded or
5 administered in whole or in part by the State of Illinois or
6 any political subdivision thereof, shall be made available upon
7 request to any law enforcement agency for use in the
8 investigation or prosecution of State benefits fraud or for use
9 in the investigation or prosecution of any other crime arising
10 out of the same transaction or occurrence. Except as otherwise
11 permitted by law, information disclosed pursuant to this
12 subsection shall be used and disclosed only for the purposes
13 provided herein. The provisions of this Section shall be
14 operative only to the extent that they do not conflict with any
15 federal law or regulation governing federal grants to this
16 State.

17 (c) Any employee of the State of Illinois or any agency or
18 political subdivision thereof may seize as evidence any false
19 or fraudulent document presented to him or her in connection
20 with an application for or receipt of money or benefits from
21 the State of Illinois, from any political subdivision thereof,
22 or from any program funded or administered in whole or in part
23 by the State of Illinois or any political subdivision thereof.

24 (d) Sentence.

25 (1) State benefits fraud is a Class 4 felony except when
26 more than \$300 is obtained, in which case State benefits fraud

1 is a Class 3 felony.

2 (2) If a person knowingly misrepresents oneself as a
3 veteran or as a dependent of a veteran with the intent of
4 obtaining benefits or privileges provided by the State or its
5 political subdivisions to veterans or their dependents, then
6 State benefits fraud is a Class 3 felony when \$300 or less is
7 obtained and a Class 2 felony when more than \$300 is obtained.
8 For the purposes of this paragraph (2), benefits and privileges
9 include, but are not limited to, those benefits and privileges
10 available under the Veterans' Employment Act, the Viet Nam
11 Veterans Compensation Act, the Prisoner of War Bonus Act, the
12 War Bonus Extension Act, the Military Veterans Assistance Act,
13 the Veterans' Employment Representative Act, the Veterans
14 Preference Act, Service Member Employment and Reemployment
15 Rights Act, the Service Member's ~~Employment~~ Tenure Act, the
16 Housing for Veterans with Disabilities Act, the Under Age
17 Veterans Benefits Act, the Survivors Compensation Act, the
18 Children of Deceased Veterans Act, the Veterans Burial Places
19 Act, the Higher Education Student Assistance Act, or any other
20 loans, assistance in employment, monetary payments, or tax
21 exemptions offered by the State or its political subdivisions
22 for veterans or their dependents.

23 (Source: P.A. 99-143, eff. 7-27-15.)

24 Section 90-70. The Illinois Human Rights Act is amended by
25 changing Section 6-102 as follows:

1 (775 ILCS 5/6-102)

2 Sec. 6-102. Violations of other Acts. A person who violates
3 the ~~Military Leave of Absence Act, the Public Employee Armed~~
4 ~~Services Rights Act,~~ Section 11-117-12.2 of the Illinois
5 Municipal Code, Section 224.05 of the Illinois Insurance Code,
6 Section 8-201.5 of the Public Utilities Act, Sections 2-1401.1,
7 9-107.10, 9-107.11, and 15-1501.6 of the Code of Civil
8 Procedure, Section 4.05 of the Interest Act, the Military
9 Personnel Cellular Phone Contract Termination Act, Section
10 405-272 of the Civil Administrative Code of Illinois, Section
11 10-63 of the Illinois Administrative Procedure Act, Sections
12 30.25 and 30.30 of the Military Code of Illinois, Section 16 of
13 the Landlord and Tenant Act, Section 26.5 of the Retail
14 Installment Sales Act, or Section 37 of the Motor Vehicle
15 Leasing Act commits a civil rights violation within the meaning
16 of this Act.

17 (Source: P.A. 97-913, eff. 1-1-13.)