

Proposed Substitute Ordinance

1 APPROVED:
2 EFFECTIVE:

3
4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington

6
7 ORDINANCE NO. 22-008

8
9 ORDINANCE AMENDING SNOHOMISH COUNTY CODE SECTION 3A.06.055 RELATING
10 TO EMPLOYEE MILITARY SERVICE

11
12 BE IT ORDAINED:

13
14 Section 1. Snohomish County Code chapter 3A.06.055, added by Amended Ord.
15 21-039 on July 21, 2021, is amended to read:

16
17 (1) Purpose. The purpose of this section is to ensure proper administration of
18 employment-related benefits, including leaves of absence, for regular full-time and regular
19 part-time employees who are members of the uniformed services, in accordance with
20 federal and state law. This section shall supersede any conflicting provisions of the
21 Snohomish County Code.

22
23 (2) Definitions

24 (a) *Uniformed Services*. Service in any branch of the United States armed
25 forces (Army, Navy, Air Force, Marines, Coast Guard), including the reserves, the
26 Army and Air National Guards, and the commissioned corps of the Public Health
27 Service, and any other persons designated by the President of the United States.

28 (b) *Authorized Military Leave*. Approved leave for active duty in the
29 uniformed services, granted according to the provisions of this chapter.

30 (c) *Involuntary Mobilization Leave*. Authorized military leave granted to an
31 employee due to an involuntary mobilization under Title 10 or 32 of the United State
32 Code for an uninterrupted period exceeding 30 days.

33
34 (3) Request for Military Leave. Requests for paid and/or unpaid military leave must
35 be submitted in writing. Employees must provide their supervisors with copies of their
36 military orders, including length of service if available, as soon as possible after they are
37 received. The county may accept verbal notification of the need for military leave and may
38 allow modification or postponement of the written requirements if giving such notice is
39 impossible, unreasonable, or precluded by military necessity. Any request for leave must be
40 submitted as far in advance as possible. Regular full-time and regular part-time employees
41 are eligible for military leave as provided in this section. Other employees will be permitted
42 to perform their military service, but may not be eligible for other benefits.

43
44 (4) Paid Military Leave. Paid leaves of absence shall be granted for authorized
45 military leave in the military service, under RCW 38.40.060, for periods of required military
46 duty, training or drills for a period not exceeding a total of 21 working days during each year,
47 beginning October 1st and ending September 30th, provided the request for such leave is in
48 writing and accompanied by a validated copy of military orders. Such leave will be in
49 addition to any vacation leave to which an employee might otherwise be entitled.

Proposed Substitute Ordinance

1 (5) Unpaid Military Leave. Employees on authorized military leave for more than 21
2 working days, who have requested leave as prescribed above, shall be granted a leave of
3 absence for a period of not to exceed five years or as provided by applicable state and
4 federal statutes.

5
6 (6) Active Duty Differential Payment. If, on or after July 1, 2021, a regular full-time or
7 regular part-time employee of the county has been (~~involuntarily mobilized under~~
8 ~~Title 10 or 32 of the United States Code for a period exceeding 30 days~~) granted
9 involuntary mobilization leave, the employee may receive from the county the difference
10 between the employee's base pay and the employee's military pay plus allowances, if the
11 military pay and allowances are lower than the county base pay, upon the employee's
12 return to County employment. If, during a pay period for which the employee seeks
13 differential pay, the employee (~~receives~~) received any pay from the county, the amount
14 received will be deducted from the differential payment, if any, for the same pay period.
15 Employees may elect to receive differential pay on a monthly basis or in a lump sum upon
16 return from active duty. The county will pay based on its current pay schedule and shall
17 deduct the prorated amount of the employee's military earnings across the county's pay
18 structure. The employee must submit all military pay stubs monthly or at the end of
19 involuntary leave to receive differential pay.

20
21 The employee shall also continue to receive from the county any medical, dental, and vision
22 benefits the employee was receiving prior to mobilization within the limits and restrictions of
23 the insurance and medical benefit plans.

24
25 For the purposes of this section, "base pay" shall mean the employee's regular straight time
26 base hourly rate of pay plus longevity, educational incentive and/or specialty pay, if any.
27 "Base pay" does not include any shift premium.

28
29 Only members and potential members of the regular classified non-represented and exempt
30 regular employees of the legislative branch of government, the executive branch of
31 government, the prosecuting attorney's office, superior and district courts, and regular
32 employees represented by bargaining units to the extent agreed upon through collective
33 bargaining to be bound by the terms of this section as now written, amended, or repealed,
34 are eligible to receive differential pay and continuation of benefits under this section.

35
36 Receipt of differential payment and continuation of benefits is contingent on the employee
37 applying for the same, (~~agreeing to~~) seeking reemployment with (~~Snohomish County~~) the
38 county or superior or district court under Title 38, Chapter 43 of the United States Code, the
39 Uniformed Services Employment and Reemployment Act ("USERRA"), returning to active
40 employment, and providing the county with supporting documentation as deemed
41 necessary by the human resources department.

42
43 Payment and benefits provided for an involuntary mobilization under this section shall be
44 limited to the term(s) of the involuntary mobilization, but in no case shall be provided for
45 more than 24 months from the date of involuntary mobilization.

46
47 Receipt of differential pay and continuation of benefits shall not grant any right, benefit, or
48 interest in employment or reemployment not granted to employees under USERRA or
49 Washington state law. It is not a vested benefit and Snohomish County may repeal this
50 program at any time.

Proposed Substitute Ordinance

1 (7) *Continuation of Medical Insurance Benefits.* Uniformed service members who
2 are on unpaid leave of absence from employment because of the performance of ordered
3 military duties may elect to continue their medical insurance coverage (including vision and
4 dental insurance) for up to 24 months, or as required by law, by self-paying ((their share))
5 the full cost of the insurance premiums. Employees on involuntary mobilization leave may
6 elect to continue such benefits for up to 24 months, with the county paying the employer's
7 portion of the insurance premiums. Premium payments must be made on the same
8 schedule as is required for active employees in order to maintain coverage. Continuation of
9 benefits for an involuntary mobilization is contingent on the employee applying for the same
10 and providing the county with supporting documentation as deemed necessary by the
11 human resources department. Employees on voluntary military leave may establish a
12 holding account with the County from which to draw payments in the event current pay is
13 insufficient to cover benefit premiums due.

14
15 (8) *Employment Status.* No member of the uniformed services shall be discharged
16 from employment or discriminated against because of the performance of military duties for
17 which he or she is ordered to serve.

18
19 (9) *Leave Accrual.* Employees on involuntary mobilization leave will continue to
20 accrue leave under the applicable code or collective bargaining agreement (subject to
21 maximum accrual limitations stated therein) as if the employee were in regular pay status.
22 Leave accruals for an involuntary mobilization is contingent on the employee applying for
23 the same and providing the county with supporting documentation as deemed necessary by
24 the human resources department.

25
26 (10) *Restoration of Employment.* Any member of the uniformed services who has
27 been on leave from employment because of the performance of ordered military duties may,
28 upon the termination of such duty, make timely application to be reemployed. Such
29 application must be submitted to the former appointing authority (department director or
30 elected official) and include documentation establishing: (1) the employee's length of
31 military service, (2) the timeliness of the application for reemployment, and (3) the type of
32 discharge. Only honorable discharged veterans are eligible for reemployment under
33 USERRA. Reemployment upon return from military services will be determined in
34 accordance with applicable federal and state laws.

35
36 (a) *Application Deadlines.* Federal and state laws, such as USERRA, contain
37 specific application deadlines, depending on the length of absence from work,
38 ranging from day one to 90 days after completing military service. Failure to request
39 reemployment within the application deadlines will result in a waiver of any
40 reemployment rights.

41
42 (b) *Reemployment.* Eligible returning service members will be restored, as nearly as
43 possible, to their prior position or positions the service member would have held if
44 remained continuously employed with the county, including such factors as:

- 45 •continuous service credit,
- 46 •anniversary date,
- 47 •step increase eligibility,
- 48 •automatic promotions,
- 49 •promotion eligibility,
- 50 •vacation accrual rates,
- 51 •personal holiday eligibility, and

Proposed Substitute Ordinance

1 •other benefit dates that are contingent upon seniority or continuous service.
2 However, returning service members who began their military leave while in
3 probationary employee status will be required to successfully serve the remainder of
4 their probationary period upon reemployment, subject to the provisions of
5 chapter 3A.09 SCC or an applicable collective bargaining agreement.
6

7 (c) *Medical Insurance*. Reemployed service members’ medical insurance benefits
8 (including dental and vision) will be reinstated without serving any waiting periods.
9

10 (d) *Retirement Benefits*. If the employee applies to, and is approved by DRS for
11 service credit, and pays the employee portion of retirement contributions, the
12 reemployed service members’ retirement benefits will be computed as if the
13 employee had remained continuously employed. Authorized military leave will not be
14 treated as a break in service and the county will make up its share of missed benefit
15 contributions. However, no credit for employee earnings will be attributed to the
16 period of leave.
17

18 (e) *Seniority Benefits*. Reemployed service members’ seniority, for purposes of
19 county employment and collective bargaining agreements, will be computed as if the
20 employee had remained continuously employed.
21

22 (11) *Military Family Leave*. Family leave for eligible military family members and
23 military caregivers will be provided according to law as set forth in SCC 3A.06.040.
24

25 (12) *Repeal*. The (~~ordinance~~) provisions based on involuntary mobilization leave
26 codified in this section shall be repealed without subsequent council action on the effective
27 date United States Code, Title 38 is amended to include differential payments from any
28 federal source.
29

30 PASSED this ___ day of _____, 2022.

31
32 SNOHOMISH COUNTY COUNCIL
33 Snohomish County, Washington

34
35
36
37 _____

38 Chairperson

39 ATTEST:
40
41
42 _____

43 Asst. Clerk of the Council
44

Proposed Substitute Ordinance

- 1
- 2 () APPROVED
- 3 () EMERGENCY
- 4 () VETOED

5
6 DATE: _____

7
8
9 _____
10 County Executive

11
12 ATTEST:

13
14 _____

15
16
17 Approved as to form only:

18
19
20 _____
21 Deputy Prosecuting Attorney
22