



Office of the City Manager

CONSENT CALENDAR
May 16, 2017

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Sarah Reynoso, Director of Human Resources
 Subject: Supplemental Military Leave Compensation Policy

RECOMMENDATION

Adopt a Resolution amending Resolution No. 63,646-N.S. to extend the City's supplemental military leave compensation benefit to May 31, 2018 to provide additional wages to supplement an employee's military pay and allowances for a period not to exceed two years that must be taken within 36 months for employees called up to involuntary active military service.

FISCAL IMPACTS OF RECOMMENDATION

There are currently two Fire Department employees on involuntary active military service. None of the employees are currently receiving supplemental Military Leave benefits under this policy. In Calendar Year 2016, only one employee received supplemental Military Leave benefits under this policy.

The financial impact of the supplemental military leave policy will vary depending upon the number of employees who are ordered to involuntary active military service and upon their military and City compensation. If no additional employees are ordered to involuntary active military service, then there is no additional cost to the City. Based on experience with prior deployments, if employees are ordered to involuntary active military service, the additional cost to the City should not exceed \$20,000 and would be absorbed within the affected department. If the employee is from either the Police or Fire Department, then the cost would be borne by the General Fund.

The current status of involuntary active military deployments is as follows:

1. An employee in the Fire Department was called up for involuntary active duty as of 2/10/2009 and is due to return in January 2018. This employee was previously deployed multiple times and has exhausted the supplemental military leave benefits.
2. An employee in the Fire Department was called up for involuntary active duty as of 1/19/2016 and is due to return in September 2018. This employee was also

previously deployed multiple times. In Calendar Year 2016, a total of \$7,839 was paid to the employee under this policy.

CURRENT SITUATION AND ITS EFFECTS

The involuntary active duty call ups of military reservists have been more extensive and for a longer duration than staff anticipated when it recommended adoption of a supplemental military leave compensation policy beginning on October 1, 2001. The City has experienced military reservists being called to involuntary active duty for second and in some cases third deployments. There is no predictability of the duration or the frequency of the military service call to active duty.

The current supplemental military leave compensation policy was adopted through Resolution No. 63,646-N.S. on April 24, 2007. The supplemental military leave policy provides different benefits dependent on whether the employee has worked for the City for more than year. The supplemental military leave policy provides:

1. In addition to the 30 days fully paid annual military leave provided under the California Military and Veterans Code, the City will pay additional wages to supplement an employee's military pay and allowances to an amount equal to the employee's regular salary for a period not to exceed two years that must be taken within 36 months of the initial call up order for employees who have at least one year of employment with the City and who have been called up to involuntary active service. However, if the twelve months has elapsed since the employee has returned from deployment and is redeployed, the employee will start a new cycle of Supplemental Military Leave Benefits as described above.
2. The City will pay additional wages to supplement an employee's military pay and allowances in an amount equal to one-half of the employee's regular salary for a period not to exceed two years that must be taken within 36 months of the initial call up order for employees with less than one year in the career service with the City and who have been called up to involuntary active service.

BACKGROUND

The City provides military leave benefits as required under the California Military and Veterans Code Section 389 et seq., and under the Federal Uniformed Services Employment and Re-employment Rights Act (USERRA) of 1994, 38 U.S.C. Sections 4301 et seq. The United States Department of Labor's Veterans' Employment and Training Service issued final regulations to clarify USERRA's application effective January 18, 2006. Under State law, the City is required to and currently does pay employees with one year of city employment their full salary and benefits for the first 30 days of their military service each year. The City is also required under Federal law to continue to provide fully paid health insurance benefits for up to one year while the employee is on military leave, since it provides such a benefit to City employees on Parental Leave who have at least one year of career City service. Under Federal and California State law, retirement benefits continue to accrue to employees on active duty.

Since the events of September 11, 2001, the City Council has adopted several resolutions on supplemental military leave compensation. The City's policy on supplemental military leave compensation was last updated on April 24, 2007 and has been incorporated in Resolution No. 63,646-N.S. The supplemental military leave compensation benefit provides additional wages to supplement an employee's military pay and allowances to an amount equal to the employee's regular salary. Without the temporary supplemental military leave benefit, employees would not be entitled to receive their full pre-military leave net pay. The supplemental military leave compensation policy is due to expire on May 31, 2017 unless the City Council takes action to extend the benefit.

Staff believes that the City should continue to provide the Supplemental Military Leave Benefit because of the financial and emotional hardship placed on employees called for involuntary active military service. The fundamental problem is that there is no reasonable method to predict the frequency or duration of the deployments. We know from experience that employees are likely to be called up more than once and for extended durations. Staff recommends that the current policy be extended for another year and it can be re-evaluated again next year.

RATIONALE FOR RECOMMENDATION

To establish a supplemental military leave benefit policy that is fair, equitable and to alleviate financial hardships those employees and their families will experience as a result of the employee being ordered to involuntary active military service regardless of the reason for the call up.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

ALTERNATIVE ACTIONS CONSIDERED

Let the current supplemental military leave policy remain in effect unaltered until it expires on May 31, 2017. However, this has an adverse impact on the employee and the employee's family at a time of high stress and anxiety.

CONTACT PERSON

Sarah Reynoso, Director of Human Resources, 981-6807

Attachment:

1:

Resolution

RESOLUTION NO. ##,###-N.S.

SUPPLEMENTAL MILITARY LEAVE COMPENSATION POLICY

WHEREAS, since September 11, 2001, the City Council has adopted several Resolutions that provided for supplemental military leave compensation to employees who have been involuntarily called up to active military service; and

WHEREAS, the City's regular military pay policy complies with the California Military and Veterans Code Section 389 et seq., and under the Federal Uniformed Services Employment and Re-employment Rights Act of 1994, 38 U.S.C. Sections 4301 et seq. in that it provides paid military leave to a maximum of thirty calendar days per fiscal year to employees who have been with the City for at least one year and who are ordered to active military service; and

WHEREAS, on September 21, 2004 the City Council adopted Resolution No. 62,648-N.S. that provided that the City would pay additional wages to supplement an employee's military pay and allowances to an amount equal to the employee's regular salary for a period not to exceed two years that must be taken within 36 months of the initial call up order for employees who have at least one year of employment; and

WHEREAS, this same Resolution No. 62,648-N.S. provided that the City will pay additional wages to supplement an employee's military pay and allowances in an amount equal to one-half of the employee's regular salary for a period not to exceed two years that must be taken within 36-months of the initial call up order for employees with less than one year in the career service with the City who have been called up to involuntary active service; and

WHEREAS, on April 24, 2007 the City Council adopted Resolution No. 63,646-N.S. that provided that the City would pay additional wages to supplement an employee's military pay and allowances to an amount equal to the employee's regular salary for an aggregate period of 24-months that must be taken within 36-months for employees called for active military service and to extend the City's supplemental military leave compensation benefit to May 31, 2008; and

WHEREAS, this same Resolution No. 63,646-N.S. provided that if 12 months has elapsed since the employee has returned from deployment and is redeployed, the employee will start a new cycle of supplemental military leave compensation benefits to provide a salary supplement for an aggregate of 24 months that must be taken within 36 months of the subsequent deployment; and

WHEREAS, this same Resolution No. 63,646-N.S. provided that the City will pay additional wages to supplement an employee's military pay and allowances in an amount equal to one-half of the employee's regular salary for a period not to exceed two years that must be taken within 36 months of the initial call up order for employees with less

than one year in the career service with the City who have been called up to involuntary active service; and

WHEREAS, on May 20, 2008, the City Council adopted Resolution No. 64,063-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2009; and

WHEREAS, on April 21, 2009, the City Council adopted Resolution No. 64,398-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2010; and

WHEREAS, on April 27, 2010, the City Council adopted Resolution No. 64,851-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2011 when it could be reevaluated; and

WHEREAS, on April 26, 2011, the City Council adopted Resolution No. 65,239-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2012 when it could be reevaluated; and

WHEREAS, on May 15, 2012, the City Council adopted Resolution No. 65,701-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2013 when it could be reevaluated; and

WHEREAS, on May 7, 2013, the City Council adopted Resolution No. 66,124-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2014 when it could be reevaluated; and

WHEREAS, on May 6, 2014, the City Council adopted Resolution No. 66,564-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2015 when it could be reevaluated; and

WHEREAS, on May 12, 2015, the City Council adopted Resolution No. 67,017-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2016 when it could be reevaluated; and

WHEREAS, on April 26, 2016, the City Council adopted Resolution No. 67,438-N.S. to extend the Supplemental Military Leave Benefit until May 31, 2017 when it could be reevaluated.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Resolution No 63,646–N.S. is amended to extend the City’s supplemental military leave compensation benefit to May 31, 2018 to provide a salary supplement for an aggregate of 24-months that must be taken within 36-months for employees who have at least one year of employment with the City and who have been called up to involuntary active service.

BE IT FURTHER RESOLVED that if twelve months has elapsed since the employee has returned from deployment and is redeployed to involuntary active military service, the

employee will start a new cycle of supplemental military leave compensation benefits to provide a salary supplement for an aggregate of 24 months that must be taken within 36 months of the subsequent deployment.

BE IT FURTHER RESOLVED that the City will pay additional wages to supplement an employee's military pay and allowances in an amount equal to one-half of the employee's regular salary for a period not to exceed two years that must be taken within 36 months of the initial call up order for employees with less than one year in the career service with the City who have been called up to involuntary active military service.

BE IT FURTHER RESOLVED that the policy is to remain in effect until May 31, 2018 when it may be re-evaluated based on the situation at that time.