

House Bill 1405 (AS PASSED HOUSE AND SENATE)

By: Representatives Birdsong of the 123rd, Murphy of the 18th, Walker of the 141st, Skipper of the 137th, Buck of the 135th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 38-2-54 of the Official Code of Georgia Annotated, relating to
2 duties, privileges, and immunities, so as to provide that certain provisions shall not be
3 applicable to certain military personnel; to amend Code Section 38-2-279 of the Official
4 Code of Georgia Annotated, relating to rights of public officers and employees absent on
5 military duty as members of organized militia or reserve forces, so as to change a certain
6 definition; to change certain provisions relative to pay for public officers while on military
7 duty; to authorize a salary differential for citizen soldiers who are public officers or
8 employees; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Code Section 38-2-54 of the Official Code of Georgia Annotated, relating to duties,
12 privileges, and immunities, is amended by striking in its entirety said Code section and
13 inserting in lieu thereof the following:

14 "38-2-54.

15 All duties imposed by the military law or other statutes of the state or by regulations issued
16 thereunder upon units, commissioned officers, warrant officers, and enlisted personnel of
17 the organized militia are imposed upon the units, commissioned officers, warrant officers,
18 and enlisted personnel, respectively, of the State Defense Force. All rights, privileges, and
19 immunities conferred by the military law or other statutes of the state or by regulations
20 issued thereunder upon the units, commissioned officers, warrant officers, and enlisted
21 personnel of the Georgia National Guard or of the organized militia are conferred upon the
22 units, commissioned officers, warrant officers, and enlisted personnel, respectively, of the
23 State Defense Force except as otherwise prescribed in this chapter; provided, however, that
24 the provisions of Code Sections 38-2-279 and 38-2-280 shall not be applicable to personnel
25 of the State Defense Force. Such rights, privileges, and immunities include relief from civil
26 or criminal liability for acts done while on duty; rights to pay, allowances, and other

1 compensation; expenses and subsistence; arms, uniforms, and equipment; provision,
2 maintenance, use, and control of armories; eligibility to appointment on the military staff
3 of the Governor; exemption from civil process and from jury duty; right of way; right to
4 wear the uniform and to parade with firearms; and all other rights, privileges, and
5 immunities created by statute or custom not hereinbefore specifically enumerated."

6 SECTION 2.

7 Code Section 38-2-279 of the Official Code of Georgia Annotated, relating to rights of public
8 officers and employees absent on military duty as members of organized militia or reserve
9 forces, is amended by striking in its entirety paragraph (1) of subsection (a) and inserting in
10 lieu thereof the following:

11 "(1) 'Ordered military duty' means: ~~(A) Any any military duty performed in the service~~
12 ~~of the state or of the United States including but not limited to attendance at any service~~
13 ~~school or schools conducted by the armed forces of the United States by a public officer~~
14 ~~or employee as a voluntary member of any force of the organized militia the National~~
15 ~~Guard or of any reserve force or reserve component of the armed forces of the United~~
16 ~~States pursuant to orders issued by competent state and federal authority without the~~
17 ~~consent of such public officer or employee.~~

18 ~~(B)(i) Except as provided in division (ii) of this subparagraph, such duty, performed~~
19 ~~for a period or periods not exceeding a total of 30 days in any one federal fiscal year,~~
20 ~~shall be deemed ordered military duty regardless of whether the orders are or may be~~
21 ~~issued with the consent of the public officer or employee.~~

22 ~~(ii) If such duty exceeds a total of 30 days in the calendar year 1997 but does not~~
23 ~~exceed a total of 30 days in the federal fiscal year beginning on October 1, 1997, and~~
24 ~~ending on September 30, 1998, it shall be deemed ordered military duty regardless of~~
25 ~~whether the orders are or may be issued with the consent of the public officer or~~
26 ~~employee."~~

27 SECTION 3.

28 Said Code section is further amended by striking in its entirety subsection (e) and inserting
29 in lieu thereof the following:

30 "~~(e) *Pay for 18 days, emergency pay.*~~

31 ~~(1) Except as provided in paragraph (2) of this subsection, every Every public officer or~~
32 ~~employee shall be paid his or her salary or other compensation as such public officer or~~
33 ~~employee for any and all periods of absence while engaged in the performance of ordered~~
34 ~~military duty and while going to and returning from such duty, not exceeding a total of~~
35 ~~18 days in any one federal fiscal year and not exceeding 18 days in any one continuous~~

1 ~~period of absence.~~ In the event the Governor declares an emergency and orders any
2 public officer or employee to ~~state active~~ ordered military duty as a member of the
3 National Guard, any such officer or employee, while performing such duty, shall be paid
4 his or her salary or other compensation as a public officer or employee for a period not
5 exceeding 30 days in any one federal fiscal year ~~and not exceeding 30 days in any one~~
6 ~~continuous period of such state active duty service.~~

7 ~~(2) If such periods of absence exceed a total of 18 days or, in the event the Governor~~
8 ~~declares an emergency, 30 days for the calendar year 1997 but does not exceed such~~
9 ~~limits for the federal fiscal year beginning October 1, 1997, and ending September 30,~~
10 ~~1998, every public officer or employee shall be paid his or her salary or other~~
11 ~~compensation as such public officer or employee as if the absence was 18 or 30 days or~~
12 ~~less, as the case may be, as specified in paragraph (1) of this subsection.~~

13 (e.1)(1) On and after July 1, 2002, every public officer or employee may be paid by the
14 government employer the difference between his or her government salary and his or her
15 military salary for any or all periods of absence while engaged in the performance of
16 ordered military duty and while going to and returning from such duty, after expiration
17 of the payment period provided for in subsection (e) of this Code section.

18 (2) To the extent that funds are appropriated or otherwise made available to the
19 Department of Community Affairs for such purpose, the department may provide grants
20 to counties, municipal corporations, and other political subdivisions to reimburse them
21 for their costs incurred under paragraph (1) of this subsection. The department shall
22 provide by rule for the administration of such grant program; and such rules shall provide
23 for pro rata distribution in the event that the funds available are insufficient to reimburse
24 all such costs."

25 SECTION 4.

26 All laws and parts of laws in conflict with this Act are repealed.