

MACRS

VETERAN'S BENEFITS



Patrick M. Charles
Associate General Counsel | PERAC
June 4, 2014

WHO QUALIFIES AS A VETERAN?

(1) c. 4 s. 7 cl. 43rd 1st paragraph

- a) **Wartime Service** — “Persian Gulf veteran” shall mean any person who performed such wartime service during the period commencing August 2, 1990 and ending on a date to be determined by presidential proclamation or executive order and concurrent resolution of the Congress of the United States
- b) **90 days** — one of which is wartime service, unless during wartime a person receives a service connected disability, purple heart or dies
- c) **180 days** — active service in the Army, Navy, Marine Corps, Coast Guard or Air Force and was honorably discharged

CREDITABLE SERVICE FOR MILITARY LEAVE

- Mandatory creditable service for military leave under G.L. c. 32 s. 4(1)(h)
- c. 708 of the Acts of 1941
- USERRA

G.L. c. 32 s. 4(1)(h)

- h) The period or periods during which any member who is a veteran as defined in section one was on leave of absence from the governmental unit to which the system of which he is a member pertains, for the purpose of serving in such campaign and until he was discharged or released from such service in the armed forces, shall be allowed as creditable service.
- Any such period of leave of absence which is subsequent to his becoming a member of such system shall be counted as membership service, and any such period prior thereto shall be counted as prior service; provided, that he would have been entitled to such credit in the event he had continued in the active service of such governmental unit during the period of time covered by such leave of absence.

(Cont'd)

G.L. c. 32 s. 4(1)(h) (Cont'd)

- Any member who served in the armed forces between January first, nineteen hundred and forty and the termination of the Selective Service Act of 1948, shall have such actual service credited to him as creditable service when **reinstated or reemployed** in his former position or in a similar position or when employed in any governmental unit in a position which is subject to the provisions of sections one to twenty-eight, inclusive, within two years of his discharge or release from such service; provided, however, that such service shall not be construed to include service for more than four years unless such further period of service in excess of four years was involuntary service required by the government of the United States or unless such service in excess of four years was rendered prior to July first, nineteen hundred and sixty-four and such member was reinstated or reemployed on or before June thirtieth, nineteen hundred and sixty-six. The provisions of sections nine and nine A of chapter seven hundred and eight of the acts of nineteen hundred and forty-one, as amended, and as may be further amended, shall be applicable to any person referred to in section one of said chapter seven hundred and eight who is a member of any retirement system established under the provisions of this chapter whose last discharge or release from military service was under honorable conditions as defined in defense department regulations

SPECIAL FUND FOR MILITARY SERVICE CREDIT

- G.L. c. 32 s. 22(7) – board must calculate the amount of reg. deductions members on military leave would have paid into the system
- G.L. c. 32 s. 22(4)(b) – if member retires or dies prior to retirement w/eligible beneficiary under s.12(2)(d) the amount in special military fund plus interest should be added to the member's accumulated regular deductions and then used to determine the amount of annuity payable under c.32 s. 12(2)

SPECIAL FUND

- If member withdraws or dies prior to retirement with no member-survivor allowance payable under s. 12(2)(d) or benefits payable under s. 12B then the amount in special fund is used to reduce the amount of the appropriation of the governmental unit(s) that paid to establish the military service credit

SPECIAL FUND

- If member is later reinstated or joins another system and re-deposits his or her accumulated deductions then the gov't unit must transfer the amount originally transferred to the pension fund plus regular interest back to the special fund
- C. 32. s. 22(4)(d) member with military service credit transfers membership to another system – transfer of funds from system 1 to system 2 upon retirement or death with eligible survivor benefits

PURCHASE OF UP TO 4 YEARS

■ c.32 s. 4 (1)(h)

- Notwithstanding the provisions of this chapter or any other general or special law, rule or regulation to the contrary, **a member in service** of a retirement system as defined in section one who is a veteran who served in the armed forces of the United States shall be entitled to credit for active service in the armed services of the United States; provided, however, that such active service shall not be credited until such member has paid into the annuity savings fund of such system, in one sum or in installments, upon such terms and conditions as the board may prescribe, makeup payments, for each year of creditable service sought, of an amount equal to the ten percent of the regular annual compensation of the member when said member entered the retirement system; and, provided further that such creditable service shall not be construed to include service for more than four years provided further, that such creditable service shall not be allowed for any period of active service for which said veteran has received credit pursuant to paragraph (h) of subsection (1) of section 4 of chapter thirty-two of the General Laws. This act shall apply to National Guard and Active Reserve personnel, both former and present. Creditable service time, both enlisted and commissioned may be applied toward retirement on a ratio of five years guard service or five years active reserve service substitutable for each year of active service.

PURCHASE OF UP TO 4 YEARS

- Purchase of up to 4 years of prior military service
 - a) 10 % of regular compensation when the member most recently established membership in the system
 - b) 5 to 1 ratio for national guard and active reserve time **MUST** qualify as a veteran
 - c) Active duty leave time **cannot** be counted towards buyback
 - d) Member has 180 days from notice to begin purchase process
 - e) Active duty for training for the Nat. Guard and Reserves is excluded
 - f) Requirement of 10 years of service before buyback was removed by c. 468 of 2002
 - g) Must be a member in service

MILITARY PAY ACT c. 137 OF THE ACTS OF 2003

- 1) Member is paid difference between their salary and their military pay while on active duty leave
- 2) These payments are considered regular compensation and contributions should be taken
 - (a) Memo 39 of 2001
 - (b) Lowers amount political subdivision has to pay into special fund for military service credit

HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT – (HEART ACT)

- 1) 840 CMR 3.10 Regulations filed with the legislature
 - (a) Killed on active duty
 - (b) Disabled while on active duty
- s. 12 benefit accrual and creditable service towards ordinary disability

HEART ACT – DEATH

- 2) **[Mandatory Provision]** Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Internal Revenue Code Section 401(a)(37), survivors of a member in a State or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's period of qualified military service must be counted for vesting purposes.

HEART ACT — DISABLED

- 3) **[Optional Provision]** Effective with respect to deaths (for purposes of benefits under Section 12 of Chapter 32) and ordinary disabilities (as determined under Section 6 of Chapter 32) occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent permitted by Internal Revenue Code Section 414(u) (9), for benefit accrual purposes and for vesting purposes, (under either section 12 of Chapter 32 or section 6 of Chapter 32) the member will be treated as having earned years of service for the period of qualified military service, having returned to employment on the day before their death or the day before their application for ordinary disability (as determined under Section 6 of Chapter 32), and then having terminated on the date of death or the date of the application for ordinary disability (as determined under Section 6 of Chapter 32). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

HEART ACT – DIFFERENTIAL WAGE PAYMENTS

- Differential wage payments after 1/1/09 regarded as compensation for purposes of limits under IRS code section 415(c)
- 4) **[Mandatory Provision for 415(c) language]** Beginning January 1, 2009, to the extent required by Internal Revenue Code Section 414(u)(12), an individual receiving differential wage payments (as defined under Internal Revenue Code Section 3401(h)(2)) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Internal Revenue Code Section 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

HEART ACT – Regulations and Memo

- Amendments to 840 CMR 3.07 and 3.10 effective on November 22, 2013
- PERAC Memo #34 of 2013

HEART ACT – What do Boards need to do?

- Board should try to identify any members who:
 - Died while on active duty military leave
 - Were disabled while on active duty leave and unable to return to work
- Contact member or beneficiary and determine what, if any, additional benefits available

HEART ACT – Additional Benefits

- c. 32 s. 12(2)(d) benefit amount may need recalculation to reflect increases creditable service
 - Beneficiary CANNOT utilize the make-up payment provision of s.12(2)(d) to purchase s.4(1)(h) time

HEART ACT – Disabled Member

- If denied cred. serv. for failure to be reinstated member may now be eligible for benefits
- If accumulated deductions withdrawn b/c not enough time for ordinary or superannuation member should be allowed to redeposit funds and any funds transferred from spec. mil. Res. Fund should be redeposited

ORDINARY DISABILITY BENEFITS

- 1) Veteran with 10 years of service = 50% disability pension
 - Can use veteran buyback to reach 10 years

OTHER VETERAN BENEFITS

- Group 1,2,and 4 veterans receive \$15 per year for each year of creditable service up to \$300 [c.32 s.5 (2)(b) and s. 7(2)(e) c. 157 of 2005]
- Group 3 veterans retired under c. 32 s.26 receive \$15 per year for each year of creditable service up to \$300

NOT A VETERAN

- Form A in your packet

MAXIMUM OF 4 YEARS

- Form B in your packet

ACTIVE DUTY PLUS NATIONAL

- Forms C in your packet
- National Guard purchase at a 5 to 1 ratio
- $$\frac{\text{5 years National Guard time}}{\text{1 year of c. 32 service}} = \frac{\text{Actual National Guard Time}}{\text{x years of c.32 service}}$$
- $$\text{X years of c.32 service} = \frac{\text{Actual National Guard time}}{\text{5 Years National Guard time}}$$

PRIOR ACTIVE DUTY AND NATIONAL GUARD LEAVE FOR ACTIVE DUTY

- Forms D in your Packet