

CITY OF HUNTINGTON BEACH

MEETING DATE: January 18, 2005

DEPARTMENT ID NUMBER: AS-05-006

Council/Agency Meeting Held: _____	City Clerk's Signature
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: January 18, 2005	Department ID Number: AS-05-006

CITY OF HUNTINGTON BEACH
REQUEST FOR COUNCIL ACTION

2005 JAN - 5 AM 9:51
 CITY CLERK
 CITY OF
 HUNTINGTON BEACH, CA
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SUBMITTED TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

SUBMITTED BY: *Penelope Culbreth Graft*
 PENELOPE CULBRETH-GRAFT, City Administrator

PREPARED BY: CHARLES THOMAS, Acting Administrative Services Director

SUBJECT: ADOPT RESOLUTION 2005-4 REGARDING MILITARY LEAVE
 COMPENSATION AND BENEFITS FOR EMPLOYEES

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue: On November 19, 2001, the City Council adopted a Resolution to continue certain compensation for those employees who serve as military reservists engaged in ordered active military training and duty. For the past two years, the City Council has approved a Resolution to extend the provisions of the original resolution thereby providing for additional temporary partially paid military leave of absence and continuation of benefits. Due to continued volatility in the international arena, the likelihood of military reservists and enlistees engaged in ordered active military training and duty remains high. This resolution will extend the authorized compensation and benefits through December 31, 2006.

Funding Source: Pay and benefits are currently funded in the existing budget.

Recommended Action: Adopt Resolution No. 2005-4, a Resolution of the City Council of the City of Huntington Beach, providing for additional temporary partially paid military leave of absence and continuation of benefits for city employees called to active duty with the armed forces.

Alternative Action: Do not extend the provisions of Resolution 2005-4.

Analysis: The City Council approved military benefits for reservists on November 19, 2001, in response to the emergency caused by the terrorist attacks on September 11, 2001. For the past two years, the City Council has approved the extension of the military compensation and benefits Resolution.

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Public employers in California must comply with both state and federal law for employees who serve in the military. In California, the Military and Veterans Code Sections 389 et seq., sets forth the employer obligations regarding the rights and benefits of employees serving in the armed forces. Employers must also comply with the federal Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. Sections 4301 et seq.

Under federal law, employers do not have any obligation to continue to pay a salary to an employee on military leave. However, under Section 395.02 of the California Military and Veterans Code, any public employee who is on active duty, and has been in the service of the public agency for at least one year, is entitled to receive his or her salary for the first 30 calendar days while engaged in the performance of ordered military duty. Under Section 395.05, employees who are members of the National Guard receive their salary for the first 30 calendar days of active service regardless of length of service with the agency.

Neither federal nor state law requires an employer to continue payment for health insurance coverage for employees who are on military leave. However, employers are not restricted from voluntarily providing health care insurance for employees and their dependents while the employee is on military leave.

The proposed resolution (Attachment 1) extends compensation and benefits as summarized below.

1. Pay Differential – Continued regular pay calculated by the difference between the gross pay and allowances actually received by the employee from the United States government and the gross pay that said employee would have received from the City if he or she had not been called to active military duty, including any scheduled cost of living salary and/or benefit adjustments.
2. Service Credits - Continued retirement service credits and city service credits, excluding the accrual of general, vacation, sick leave, or merit step advancements during the term of ordered active military duty.
3. Benefits - Continued benefits to such employees' dependents to the same extent that he or she would have received if not called into active military duty,

The extension of compensation and benefits will terminate on December 31, 2006, unless extended by the City Council.

Our existing Personnel Rules require that military leave be granted in accordance with legal requirements. The proposed resolution goes beyond the legal requirements. Additionally, since the intent of the resolution is to keep the employee and family members financially stable during their term of active duty, the proposed Resolution does not extend general, vacation, and/or sick leave accruals except as required for National Guards during the first 30 calendar days of active service or for temporary military leave for training purposes as required by law. Since these benefits are not provided to other employees on unpaid status

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and the city is not legally obligated to provide such benefits, at this time, staff is not recommending that they be included. Additionally, staff recommends that the extension of pay and benefits past the 30-day period apply only to permanent employees of the city.

As an outward demonstration of support for our military reserves and enlistees, staff recommends that all qualifying reservists and enlistees receive the benefit package as itemized above and that this Resolution be approved as a temporary exception to existing Personnel Rules or Memorandums of Understanding.

Environmental Status:

N/A

Attachment(s):

City Clerk's Page Number	No.	Description
4	1	Resolution 2005-4 - Providing for additional temporary partially paid military leave of absence and continuation of benefits for city employees called to active duty with the armed forces.

RCA Author: I. Youssefieh

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ATTACHMENT 1

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RESOLUTION NO. 2015-4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF HUNTINGTON BEACH PROVIDING FOR ADDITIONAL
TEMPORARY PARTIALLY PAID MILITARY LEAVE OF ABSENCE
AND CONTINUATION OF BENEFITS FOR CITY EMPLOYEES
CALLED TO ACTIVE DUTY WITH THE ARMED FORCES

WHEREAS, a number of City of Huntington Beach employees may be or have been called into active military service in connection with actions to combat terrorism against America; and

The City Council of the City of Huntington Beach desires to alleviate financial hardships that employees and their families may experience as a result of being called to active duty to serve during such crisis,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH AS FOLLOWS:

1. Each officer or employee who is called to active duty shall be entitled to receive his or her salary for the first 30 days while engaged in the performance of ordered military duty ("Paid Leave"), as well as other qualifying benefits, as defined by the associated Military and Veterans Codes.
2. Each officer or permanent employee of the City who is eligible to receive such Paid Leave and, who has been, or is in the future, called to active military duty with the Armed Forces of the United States shall be entitled to leave with partial pay pursuant to the terms of this Resolution for the period of absence on active duty in excess of the period covered by current Paid Leave provisions.
3. The amount of pay each officer or permanent employee shall be entitled to receive from the City for said additional period of military leave shall be the difference between the gross pay and allowances actually received by the officer or employee from the United States for such service and the gross pay that said officer or employee would have received from the City if he or she had not been called to active military duty, including any scheduled cost of living salary and/or benefit adjustments.
4. The City shall provide continued retirement service credits and city service credits, excluding the accrual of general, vacation, sick leave, or merit step advancements during the term of ordered military duty.
5. The City shall provide continued benefits to such employees' dependents to the same extent that he or she would have received if not called into active military duty.

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6. Pay and benefits pursuant to this Resolution are conditioned upon the officer or employee requesting such payment providing satisfactory proof and documentation of eligibility to receive payment in accordance with the procedures established by the Director of Administrative Services.

7. The pay and benefits authorized by this Resolution shall terminate on December 31, 2006, unless extended by the City Council.

8. The effective date of this Resolution shall be January 1, 2005.

9. The pay and benefits outlined in Section 1 apply to all officers and employees of the City.

10. The pay and benefits outlined in Sections 2-5 apply to all officers and employees as qualified by resolutions for the following designated employee groups:

- Huntington Beach Management Employees Organization (HBMEO)
- Huntington Beach Fire Management Association (HBFMA)
- Huntington Beach Firefighters Association (HBFA)
- Huntington Beach Municipal Employees Association (HBMEA)
- Huntington Beach Police Management Association (HBPMA)
- Huntington Beach Police Officers Association (HBPOA)
- Marine Safety Officers Association (MSOA)
- Non-Associated

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2005.

Mayor

REVIEWED AND APPROVED:

Penelope Cullinan
City Administrator

APPROVED AS TO FORM:

[Signature] *ACDNV*
City Attorney *ses 12/28/04*

INITIATED AND APPROVED:

C. J. Jones
Director of Administrative Services

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