

AN ORDINANCE AMENDING ADA COUNTY CODE TITLE 1 CHAPTER 7K-5, TO BRING COUNTY IN COMPLIANCE WITH FEDERAL AND STATE MILITARY LEAVE LAWS AND TO ALLOW THE ELECTED OFFICIALS TO GRANT DIFFERENTIAL PAID TIME OFF FOR MILITARY LEAVE TAKEN NOT TO EXCEED ONE YEAR.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ADA COUNTY, IDAHO, THAT ADA COUNTY CODE, TITLE 1, CHAPTER 7K, SECTION 5 BE DELETED AND A NEW SECTION 5 BE ADOPTED TO READ AS FOLLOWS:

**1-7K-5: MILITARY LEAVE:**

A. Ada County is committed to protecting the job rights of employees absent due to military leave. Under Idaho State law, an employee who is a member of the National Guard or military reserve of the United States and who leaves a non-temporary position to receive military training, shall be entitled to an unpaid protected leave of absence and will be restored to his or her previous or similar position with the same status, pay and seniority. An employee shall provide ninety days notice of training departure and notice of return date. The employee may be required to demonstrate fitness for duty prior to returning to work. Under federal law, all employees except those in temporary positions, are entitled to protected unpaid leave and reemployment for up to five years if they serve in the Army, Navy, Marines, Air Force, Army or Air National Guard, the reserves, the commissioned corps of the Public Health Service, or any other uniformed services designated by the U.S. President. Military service includes, but is not limited to, voluntary or involuntary service, military training, reserve and active duties. The employee is entitled to unpaid leave regardless of whether the employee enlists or is drafted.

Employees on unpaid military leave may use earned sick and vacation leave or compensatory time if they so desire; however, they are not required to do so. Employees shall not be discharged or denied promotions or any other employment benefits or advantages because of military service.

B. Benefits: Employees on military leave shall be treated the same as employees on other type of unpaid leaves of absence for purposes of benefit continuation. The summary plan documents of each benefit will control.

C. Notice: Employees who must be absent because of military obligations should request military leave either orally or in writing as far in advance as possible.

D. Reinstatement: Restoration of employment will be handled in compliance with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA).

- E. All employees still on military leave of absence status prior to May 1, 2004 will continue to be paid in accordance with the previous military leave ordinance. All military leaves that commence on or after March 1, 2004 will be subject to this ordinance.
- F. Compensation: Although not required by law, if the gross amount earned by the employee during military leave is less than his/her county gross salary for that period, the county will pay the difference for a period not to exceed one year after which time the employee will be on unpaid leave. If the employee's pay during the leave is greater than his/her county gross salary for that period, it will be considered leave without pay, although benefits will be provided.

**DATED** this 1st Day of June 2004.

**Board of Ada County Commissioners**

Judy M. Peavey-Derr, Chairman

Rick Yzaguirre, Commissioner

Fred Tilman, Commissioner

ATTEST:

J. David Navarro, Ada County Clerk