

**BASTROP COUNTY EMERGENCY SERVICES DISTRICT NO. 1  
MILITARY DIFFERENTIAL PAY AND BENEFITS**

WHEREAS, Bastrop County Emergency Services District No. 1 (“District”) is authorized to enact a policy for the payment of military differential pay and benefits to its officers and employees pursuant to Section 431.019 of the Texas Government Code and Section 775.039 of the Texas Health and Safety Code; and

WHEREAS, the following policies and procedures are meant to make provision of such military differential pay and benefits to the District’s officers and employees. Military differential pay and benefits will be provided to all eligible officers and employees of the District as hereinafter provided:

**Section 1.0 Definitions**

1. Active Duty: Full-time duty in the active service of the state military forces or a reserve component of the United States armed forces.
2. Benefits: Officer/employee’s and officer/employee’s dependents’ insurance benefits provided by the District.
3. Board: Bastrop County Emergency Services District No. 1 Board of Directors.
4. Cumulative days of Military Service: The total length of the absence and of all previous absences, paid and unpaid, from a position of employment with that employer by reason of service in the uniformed services.
5. Days: Calendar days, not business work days, when counting toward thresholds for establishing reemployment rights under USERRA.
6. Differential Pay: A benefit provided by the District pursuant to Section 431.019 of the Texas Government Code and Section 775.039 of the Texas Health and Safety Code to eligible district officers or employees, which pays differential pay pursuant to those statutes.
7. District: Means Bastrop County Emergency Services District No. 1.
8. Military Duty: Voluntary or involuntary service in the uniformed services.
9. Military Leave of Absence: Employment status approved following formal notification, verification and documentation of military duty status.
10. Military Leave Pay: A benefit provided by Bastrop County Emergency Services District No. 1 and mandated by Section 431.005 of the Texas Government Code to eligible officers or employees, which pays up to 15 days of compensation (per federal fiscal year).

11. Uniformed Services: Army, Navy, Marine Corps, Air Force, Coast Guard; Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve; the Army National Guard and the Air National Guard; the Texas military forces; and any other category of persons designated by the President in time of war or national emergency.

## **Section 2.0 Notice**

2.01 The officer/employee must submit notice to the Board within thirty (30) days of any notice that they have been called to active duty in the state military forces or a reserve component of the United States armed forces.

2.02 Notice to the Board should be in writing.

2.03 Notice must indicate branch of service, expected date that duty will begin, the expected duration of duty, personal contact information, and updated mail address.

2.04 Notice must request military differential pay and/or benefits.

2.05 The Board may request additional information as needed for its records and to assist in its determination, such as pay grade, base salary, and rank.

2.06 Notice should be made as soon as the officer/employee is aware of military duty, even before all details of service are known.

2.07 As soon as possible, a copy of the order, directive, notice or other documentation requiring absence from scheduled work should be given or mailed to the Board.

2.08 Failure to give notice to the Board may be excused if giving notice is impossible or unreasonable, at the sole discretion of the Board.

2.09 The law prohibits any discrimination in employment or any adverse employment action against someone for serving in the uniformed services, or even applying to serve in the uniformed services.

## **Section 3.0 Board Approval of Military Differential Pay and/or Benefits**

3.01 The Board will review the notice provided by the officer/employee and will provide notice as to the approval/denial of the requested military differential pay and/or benefits within fourteen (14) days of its receipt of officer/employee's notice.

3.02 The Board will have the option of requesting additional information prior to approval/denial of the requested military differential pay and/or benefits within seven (7) days of its receipt of officer/employee's notice. The remaining time period provided in Section 3.01 will be tolled until such time as officer/employee provides the requested information.

3.03 Upon receipt of the District's decision as to the requested military differential pay and/or benefits, the officer/employee will have the option to object to the decision within ten (10) days. Failure to object within ten (10) days will mean officer/employee is in agreement with the Board's decision, and such decision will be final. The Board, in its sole discretion, may extend this time period as it sees fit.

#### **Section 4.0 Eligibility for Military Differential Pay and/or Benefits**

4.01 Must be a District officer or employee of the District.

4.02 Must be serving on active duty pay status in the uniformed services on or after September 1, 2011.

4.03 The District officer or employee must provide notice as required by Section 2.0.

4.04 The District officer or employee must have exhausted the Military Leave Pay provided by Section 431.005 of the Texas Government Code.

4.05 Must provide a copy of the military orders.

4.06 The pay received by the district officer or employee from the uniformed services (all inclusive; including all pay, allowances and bonuses) must be less than the base pay earned from the District at the time they were called to active duty. Base pay is the district officer or employee's gross hourly or salaried rate from the District, excluding allowances.

#### **Section 5.0 Employment Status During Military Leave**

5.01 The District officer or employee will be considered an officer or employee of the District while on paid or unpaid leave for a period of up to five (5) years.

5.02 After the period of five (5) years stated in 5.01, then his/her employment rights may change under USERRA.

#### **Section 6.0 Completing Military Duty and Returning to Work**

6.01 The District officer or employee who has completed military duty and is returning to work will not be denied reemployment, retention in employment, promotion, or any benefit of employment, as a result of their military duty.

6.02 When military duty is complete, the District officer or employee must notify the Board, following the USERRA standards of notification, to begin the reemployment process.

6.03 Notification must be provided to the Board as follows:

- A. If the District officer or employee has been on military duty for 1-30 days, then the District officer or employee must report to the District by the beginning of the first regularly scheduled workday that would fall eight (8) hours after the end of the calendar day on which military duty ended. If timely reporting back to work would be impossible or unreasonable, the employee must report back to work as soon as possible. No written notice is required.
- B. If the District officer or employee has been on military duty for 31-180 days, then the District officer or employee must submit a written notice to the Board no later than fourteen (14) days after the District officer or employee's completion of military duty. If submission of a timely notice is impossible or unreasonable, the notice must be submitted as soon as possible.
- C. If the District officer or employee has been on military duty for 181 days or more, then the District officer or employee must submit a written notice to the Board no later than ninety (90) days after the District officer or employee's completion of military duty. If submission of a timely notice is impossible or unreasonable, the notice must be submitted as soon as possible.

6.04 Failure to provide proper notification as required in Section 6.0 does not automatically forfeit entitlement to USERRA rights and benefits.

6.05 The Board will provide confirmation of reemployment within five (5) days of its receipt of the notification required under Section 6.04. However, if the District officer or employee is ineligible or disqualified under USERRA, then he/she may be terminated by the District.

6.06 Generally, a District officer or employee will be re-employed in the same position held prior to military duty, or a position of similar seniority, status, and pay. This is not meant to contravene the rights and benefits provided to District officers or employees under USERRA.

### **Section 7.0 Severability**

If any article, section, or provision of this policy is found invalid, unconstitutional, or inoperative by any court with jurisdiction to determine same, then the other articles, sections, or provisions herein shall remain in full force and effect.

### **Section 8.0 Effective Date**

This Policy shall become effective from and after the date of its publication, or the publication of a caption summarizing its purpose and stating the penalty for the violation.

PASSED, APPROVED, AND ADOPTED on the 12th day of September 2011.