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ISERRA's 2025 Amendment

On August 15, 2025, Governor Pritzker signed Public Act 104-0176 into law. This Act constitutes the first change to the Illinois Service Member Employment and Reemployment Rights Act (ISERRA) since its inception in 2019. The changes implemented by PA 104-0176 became effective immediately after the Governor signed the law.

What Changed and Why?

When an Illinois Firefighter who regularly worked overnight shifts noticed that his differential pay was insufficient to cover his lost income during periods of military leave, he reached out to his local Veterans Assistance Commission about changing the law. The firefighter and his advocates quickly enlisted the support of the State's ISERRA Advocate who recommended several other improvements to the Act based on common concerns expressed by service members and their employers. In early 2025, the Amendment passed the Illinois House and Senate without opposition and was signed into law by the Governor shortly thereafter.

The 2025 Amendment makes three substantive changes to the Act and includes several minor clarifications. The first major change modifies ISERRA's differential calculation formula from a "work day" system to a "work shift" system, which benefits service member employees who work overnight shifts. The second substantive change provides concurrent compensation to service members completing military orders issued "in lieu" of annual training. The final major change terminates an employer's obligation to pay differential compensation when service members are absent on voluntary active service for a period in excess of three years.

Differential Changes from “Work Days” to “Work Shifts”

Service members who are full-time public employees are entitled to differential compensation when their daily rate of compensation as a civilian public employee is higher than their daily rate of basic pay from the military. The 2025 Amendment to ISERRA changed how service members and employers are directed to calculate the daily rate of compensation as a public employee. Previously, ISERRA used a “work day” system which applied to calendar days in which the employee would have otherwise been scheduled or required to work as a public employee without regard to how many hours were worked during each day. The ISERRA Amendment adopts a “work shift” system with the following language:

“(W)ork days” are the actual number of shifts the employee would have worked during the period of military leave but for the service member’s military obligation. “Work days” are tabulated up to 24 continuous hours in a shift, regardless if the shift extends into the next calendar day. A shift that extends beyond 24 continuous hours will be calculated as an additional work day.

Under the previous system an employee who worked from 6 pm on one day until 6 am the following day would have been considered to have worked 2 “work days.” Under the new system, that shift constitutes a single “work day” for their civilian employer. In many cases this change will substantially reduce the number of work days per pay period for overnight employees. Because there are fewer work days in a pay period, the daily rate of regular compensation as a public employee will be higher and the daily rate of differential compensation as a public employee will be higher.

Here is a practical example of how the new calculation method can be applied:

An employer has a bi-weekly pay schedule, and an employee works seven 12-hour shifts from 6pm-6am during the period. Week 1 has 3 shifts starting at 6pm Monday, Tuesday and Wednesday and week 2 has 4 shifts starting on Saturday, Sunday, Monday, and Tuesday. After the 2025 Amendment this will result in 7 “work days” during the period. This is different than the pre-Amendment definition of “work days” which would have found 9 “work days” in this scenario.

If the employee earned \$3,000 during the bi-weekly pay period, their daily rate of pay would change from \$333.33 per day under the pre-Amendment definition ($\$3,000 \div 9 \text{ days}$) to \$428.57 under the post amendment system ($\$3,000 \div 7 \text{ days}$). An updated differential calculation worksheet which incorporates the changes made by the 2025 Amendment can be found on the Illinois Attorney General’s website.

Orders “In Lieu” of Annual Training Now Qualify for Concurrent Compensation

Concurrent compensation has always been the most generous benefit provided by ISERRA; however, it is also the most limited. If you are a full-time public employee, ISERRA requires your public employer to pay your regular compensation for periods of annual training, with a maximum of 30 days per calendar year. When ISERRA first became effective on January 1, 2019, concurrent compensation was limited to annual training orders issued under three sections of federal law: 10 U.S.C. 10147, 10 U.S.C. 12301(b), or 32 U.S.C. 502(a).

While the pay offered by concurrent compensation allows service members to receive both their military and civilian pay simultaneously, ISERRA’s initial limitations often resulted in service members missing their annual opportunity to receive this benefit. Military members are frequently required to complete military obligations which replace their standard annual training requirements such as military trainings, schools, and exercises which are performed “in lieu” of annual training. Because service members frequently lack the ability to tailor or modify their military duty status, it was very common for service members to lose the opportunity to receive concurrent compensation.

The August 15, 2025, ISERRA Amendment expands concurrent compensation to cover orders issued “in lieu” of annual training. The Amendment defines orders in lieu of annual training as:

“Orders in lieu of annual training” means any paid active duty performed by a service member which has been designated by that service member’s military authority as a replacement or substitution of that service member’s annual training obligation. Employers may request documentation from a service member’s military unit to confirm that periods of military service qualify as orders in lieu of annual training.

The Amendment also makes it clear that, “(p)ublic employees may receive concurrent compensation for both annual training orders and orders in lieu of annual training in the same calendar year; however, the combined total of their concurrent compensation shall not exceed 30 days in a calendar year.”

Limitations on Extended Periods of Voluntary Active Service

The most common ISERRA concern voiced by employers was that the Act contained no mechanism for terminating differential compensation for service member employees who do not intend to return to their civilian employment. USERRA, the federal law on which ISERRA is based, contains a provision which is commonly referred to as the 5-year rule which relieves employers of their obligation to reinstate service member employees who have been absent for over 5 years of qualifying military orders. USERRA’s 5-year rule is incorporated into ISERRA, but prior to the 2025

Amendment, there was no corresponding provision to terminate an employee's entitlement to differential pay. This created scenarios in which service member employees were entitled to differential pay without any time limit, but were not entitled to reemployment with their civilian employer.

This concern was addressed by language in PA 104-0176 which states:

After a public employee is absent from his or her employment for a consecutive 3-year period while performing voluntary active service, the employee's entitlement to differential compensation shall be terminated. Upon return to work with his or her employer for more than 90 calendar days, the public employee's right to differential pay shall be reinstated. Nothing in this Section shall entitle a public employee to differential pay in excess of 60 work days per calendar year for voluntary active service.

This language resolves the disconnect between USERRA and ISERRA by requiring service members to return to work to renew their eligibility for differential compensation. As a result, service members who are not entitled to reemployment will not be able to return to work without the consent of their employer. As a final note, employers should remember that the triggering condition for this change only applies to voluntary active service and as a result, periods of involuntary active service do not count towards the 3-year absence requirement.

Administrative Changes and Clarifications

PA 104-0176 also made a series of minor administrative clarifications to assist service members and employers as they apply ISERRA. These changes include:

1. An explanation that the term "active service" does not include absences from civilian employment to work as a military technician, sometimes known as a federal dual-status technician. While these positions are incorporated into military units, military technicians are acting as federal civilian employees, not uniformed military members.
2. A clarification that public employees are not entitled to differential pay for periods of unpaid active service including, but not limited to: travel to and from military orders, rest periods immediately before or after military orders, and military service in which the public employee does not receive pay from the military.

3. A provision stating that service members may elect to utilize their previously accrued vacation, annual, or other similar leave with pay during periods of active service. This provision expressly applies to both paid and unpaid active service, including, but not limited to: travel to and from military orders, rest periods immediately before or after military orders, and military service during which the service member does not receive pay from the military. The decision to use benefit time rests solely with the service member.
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Final Thoughts and Real-World Assistance

The provisions of the 2025 ISERRA Amendment became effective once the Governor signed PA 104-0176 on August 15, 2025. As a result, employers across the State will be required to move quickly to integrate the new provisions into their existing practices.

The ISERRA Advocate is charged with creating educational materials, providing training, and responding to the public's inquiries about the Act. To meet this duty, the Military and Veterans Rights Bureau (MVRB) of the Illinois Attorney General's Office maintains a variety of educational materials on their website here: <https://www.illinoisattorneygeneral.gov/Rights-of-the-People/military-and-veterans-rights/>. If you have a question about the Act, or you are interested in scheduling and in-person or online training on ISERRA, please do not hesitate to reach out to the MVRB team. The MVRB can be reached at their helpline: 1-800-382-300 or their email: mvrb@ilag.gov.

Thank you for reading!

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ISERRA Advocate