

BILL ANALYSIS

Senate Research Center

H.B. 1205
By: Keffer, Jim et al. (Eltife)
Business & Commerce
5/18/2007
Committee Report (Amended)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, when asked to respond to an emergency, volunteer firefighters and emergency medical service personnel are not protected from termination or demotion by their employer should they miss work in the process. Volunteer responders feel this is a disincentive to lend their time to the community.

The following states currently have legislation protecting volunteer firefighters from job termination or demotion, including Pennsylvania, Illinois, New Jersey, West Virginia, Ohio, Kentucky, and Washington.

H.B. 1205 will protect emergency responders from being terminated, demoted, or discriminated against due to the employee being absent from or late to work in order to respond to an emergency.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 2, Labor Code, by adding Chapter 23, as follows:

CHAPTER 23. EMPLOYMENT DISCRIMINATION REGARDING VOLUNTEER EMERGENCY RESPONDERS

Sec. 23.001. DEFINITIONS. Defines "emergency," "emergency medical services," "emergency medical services volunteer," "emergency service organization," "employee," "employer," "political subdivision," "volunteer emergency responder," "volunteer fire department," and "volunteer firefighter."

Sec. 23.002. DISCRIMINATION PROHIBITED; LIMITATION. (a) Prohibits an employer, except as provided by this chapter, from terminating or suspending the employment of, or in any manner discriminating against, an employee who is a volunteer emergency responder (responder) and who is absent from or late to the employee's employment because the employee is responding to an emergency in the employee's capacity as a responder.

(b) Provides that an employee who is a responder is not entitled under this chapter to be absent from the employee's employment for more than 14 days in a calendar year unless the employee's absence is approved by the employer, notwithstanding Subsection (a).

Sec. 23.003. EXCEPTION FOR CERTAIN SMALL EMPLOYERS. (a) Provides that this chapter does not apply, except as provided by Subsection (b), to an employer for whom an absence to respond to an emergency by an employee who is a responder would result in hardship by reducing the employer's workforce by more than 50 percent.

(b) Authorizes an employer described by Subsection (a) to permit an employee to provide services as a responder. Provides that an employer who elects under this

subsection to permit an employee to provide services as a responder is subject to this chapter.

Sec. 23.004. EXCEPTION FOR CERTAIN CRITICAL EMPLOYEES. (a) Defines "critical employee."

(b) Provides that this chapter does not apply to an employee who is a critical employee of the employee's employer, except as provided by Subsection (c).

(c) Authorizes an employer to permit a critical employee to provide services as a responder. Provides that an employer who elects under this subsection to permit a critical employee to provide services as a responder is subject to this chapter.

Sec. 23.005. NOTICE TO EMPLOYER. Requires an employee who is a responder and who may be absent from or late to employment because the employee is responding to an emergency as a responder to make a reasonable effort to notify the employer that the employee may be absent or late. Requires the employee to submit to the employer, on the employer's request, a written verification of participation in an emergency activity that meets certain requirements if the employee is unable to provide the notice due to the extreme circumstances of the emergency or inability to contact the employer.

Sec. 23.006. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME. (a) Authorizes an employer to reduce the wages otherwise owed to the employee for any pay period because the employee took time off during that pay period for an absence authorized by this chapter.

(b) Authorizes an employer, in lieu of reducing an employee's wages under Subsection (a), to require an employee who is a responder to use existing vacation leave time, personal leave time, or compensatory leave time for an absence authorized by this chapter, except as otherwise provided by a collective bargaining agreement.

(c) Provides that this section does not affect an employee's right to wages or leave time under Section 661.905 (Volunteer Firefighters and Emergency Medical Services Volunteers), Government Code.

Sec. 23.007. LIABILITY; REINSTATEMENT. Sets forth certain entitlements for an employee whose employment is suspended or terminated in violation of this chapter.

Sec. 23.008. CIVIL ACTION. (a) Authorizes an employee whose employer violates this chapter to bring a civil action against the employer to enforce rights protected by this chapter.

(b) Requires an action under this section to be brought in the county in which the place of employment is located not later than the first anniversary of the date of the violation.

SECTION 2. Makes application of Chapter 23, Labor Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2007.

SUMMARY OF COMMITTEE CHANGES

Committee Amendment No. 1:

Amends the Committee Substitute to H.B. 1205 (Engrossed Version), as follows:

(1) Amends Section 23.001, Labor Code, as added by this Act, to redefine "emergency" by including a proclamation declaring a state of disaster by the governor of Texas or the president of the United States that includes a fire, hazardous or toxic materials spill and cleanup, medical

emergency, or other situation that poses an imminent threat of loss of life or property to which a fire department or provider of emergency medical services has been or later could be dispatched.

(2) Amends Section 23.007(b), Labor Code (Engrossed Version, page 5, lines 19-21), by striking "first anniversary of" and substituting "the 15th business day after."

Committee Amendment No. 2:

Amends Section 23.003, Labor Code, to delete Subsections (a) and (b), as added by this Act, relating to an employer permitting employees to provide services as a volunteer emergency responder under certain circumstances. Provides that this chapter does not apply to employers with fewer than 50 employees.