

By: Callegari

H.B. No. 30

Substitute the following for H.B. No. 30:

By: Callegari

C.S.H.B. No. 30

A BILL TO BE ENTITLED

AN ACT

relating to unpaid furloughs for state employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 658.007, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Notwithstanding other law, including Sections 658.003 and 658.004, or terms of contract, an institution of higher education may establish a mandatory employee furlough or work reduction program as necessary to increase efficiency, reduce the cost of operations, or otherwise address the financial condition of the institution. While a furlough or work reduction program is in effect, the terms and conditions of the program apply notwithstanding other law. Any reduction in costs or savings attained by the institution as a result of a furlough or work reduction program shall be retained and expended by the institution and shall not be accounted for in an appropriations act in such a way as to reduce the general revenue or other appropriations to the institution.

(d) Sections 658.011(e)-(g) apply to a mandatory furlough or work reduction program adopted by an institution of higher education under Subsection (c).

(e) An individual participating in an involuntary furlough or work reduction program who receives benefits under Chapter 1601, Insurance Code, remains eligible for benefits in accordance with

rules adopted by the applicable system as defined by Section 1601.003, Insurance Code.

SECTION 2. Chapter 658, Government Code, is amended by adding Section 658.011 to read as follows:

Sec. 658.011. INVOLUNTARY FURLOUGH PROGRAM. (a) In this section, "state agency" means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

(b) On approval of the governing body of the state agency, the executive director of a state agency may require an employee of the state agency to participate in an involuntary furlough program without pay in order to balance the state agency's budget.

(c) The state agency implementing an involuntary furlough program under this section shall reduce an employee's compensation in an amount equal to the number of hours the employee is furloughed times the employee's hourly rate or equivalent hourly rate as provided by Section 659.085.

(d) Except as provided by Subsection (g), a state employee may not use vacation, sick, or any other paid leave while the employee is on an unpaid furlough.

(e) An unpaid furlough under this section does not constitute a break in service for the state employee.

(f) A state employee who is on unpaid furlough continues to accrue:

(1) state service credit for purposes of longevity

1 pay;

2 (2) vacation leave; and

3 (3) sick leave.

4 (g) A state employee on an unpaid furlough that exceeds one
5 month in length may continue to accrue service credit with the
6 Employees Retirement System of Texas or Teacher Retirement System
7 of Texas by receiving state pay during each month of the unpaid
8 furlough in an amount equal to the employee's contribution to the
9 retirement system under Section 815.402 or 825.403, as appropriate.
10 The employee may use any combination of paid leave, including state
11 compensatory leave, overtime leave under the federal Fair Labor
12 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), sick leave,
13 or annual leave to qualify for the state pay.

14 SECTION 3. Section 659.043, Government Code, is amended by
15 adding Subsection (c) to read as follows:

16 (c) Notwithstanding Subsections (a)(1) and (2), an employee
17 participating in an involuntary furlough program under Section
18 658.011 who is otherwise eligible for longevity pay is entitled to
19 longevity pay.

20 SECTION 4. Subchapter K, Chapter 659, Government Code, is
21 amended by adding Section 659.264 to read as follows:

22 Sec. 659.264. CERTAIN SALARY REDUCTIONS AT INSTITUTIONS OF
23 HIGHER EDUCATION. Notwithstanding other law or terms of contract,
24 subject solely to procedures and rules adopted by the governing
25 board, an institution of higher education may establish a program
26 of temporary or permanent salary reductions as necessary to reduce
27 cost of operations or otherwise address the financial condition of

1 the institution.

2 SECTION 5. Section 811.001(7), Government Code, is amended
3 to read as follows:

4 (7) "Compensation" means the base salary of a person;
5 amounts that would otherwise qualify as compensation but are not
6 received directly by a person pursuant to a good faith, voluntary,
7 written salary reduction agreement in order to finance payments to
8 a deferred compensation or tax sheltered annuity program
9 specifically authorized by state law or to finance benefit options
10 under a cafeteria plan qualifying under Section 125 of the Internal
11 Revenue Code of 1986 (26 U.S.C. Section 125); longevity and
12 hazardous duty pay; nonmonetary compensation, the value of which is
13 determined by the retirement system; amounts by which a person's
14 salary is reduced under a salary reduction agreement authorized by
15 Chapter 610; amounts by which a person's salary is reduced under an
16 involuntary furlough program under Section 658.011; and the benefit
17 replacement pay a person earns under Subchapter H, Chapter 659, [~~as~~
18 ~~added by Chapter 417, Acts of the 74th Legislature, 1995,~~] except
19 for the benefit replacement pay a person earns as a result of a
20 payment made under Subchapter B, C, or D, Chapter 661. The term
21 excludes overtime pay and a cleaning or clothing allowance.

22 SECTION 6. Section 822.201(b), Government Code, is amended
23 to read as follows:

24 (b) "Salary and wages" as used in Subsection (a) means:

25 (1) normal periodic payments of money for service the
26 right to which accrues on a regular basis in proportion to the
27 service performed;

1 (2) amounts by which the member's salary is reduced
2 under a salary reduction agreement authorized by Chapter 610;

3 (3) amounts that would otherwise qualify as salary and
4 wages under Subdivision (1) but are not received directly by the
5 member pursuant to a good faith, voluntary written salary reduction
6 agreement in order to finance payments to a deferred compensation
7 or tax sheltered annuity program specifically authorized by state
8 law or to finance benefit options under a cafeteria plan qualifying
9 under Section 125 of the Internal Revenue Code of 1986, if:

10 (A) the program or benefit options are made
11 available to all employees of the employer; and

12 (B) the benefit options in the cafeteria plan are
13 limited to one or more options that provide deferred compensation,
14 group health and disability insurance, group term life insurance,
15 dependent care assistance programs, or group legal services plans;

16 (4) performance pay awarded to an employee by a school
17 district as part of a total compensation plan approved by the board
18 of trustees of the district and meeting the requirements of
19 Subsection (e);

20 (5) the benefit replacement pay a person earns under
21 Subchapter H, Chapter 659, except as provided by Subsection (c);

22 (6) stipends paid to teachers in accordance with
23 Section 21.410, 21.411, 21.412, or 21.413, Education Code;

24 (7) amounts by which the member's salary is reduced or
25 that are deducted from the member's salary as authorized by
26 Subchapter J, Chapter 659;

27 (8) a merit salary increase made under Section 51.962,

Education Code;

(9) amounts received under the relevant parts of the educator excellence awards program under Subchapter O, Chapter 21, Education Code, or a mentoring program under Section 21.458, Education Code, that authorize compensation for service;

(10) salary amounts designated as health care supplementation by an employee under Subchapter D, Chapter 22, Education Code; ~~and~~

(11) to the extent required by Sections 3401(h) and 414(u)(2), Internal Revenue Code of 1986, differential wage payments received by an individual from an employer on or after January 1, 2009, while the individual is performing qualified military service as defined by Section 414(u), Internal Revenue Code of 1986; and

(12) amounts by which a person's salary is reduced under an involuntary furlough or work reduction program under Section 658.007.

SECTION 7. Subchapter C, Chapter 1551, Insurance Code, is amended by adding Section 1551.1015 to read as follows:

Sec. 1551.1015. INVOLUNTARY FURLOUGH PROGRAM. An individual is eligible to participate in the group benefits program if the individual would otherwise be eligible to participate in the program under this subchapter except that the individual is not receiving compensation for service because the individual is participating in an involuntary furlough program under Section 658.007 or 658.011, Government Code.

SECTION 8. Section 1551.319, Insurance Code, is amended by

adding Subsection (g) to read as follows:

(g) For purposes of determining whether an individual is a full-time or part-time employee under this section, any reduction in the employee's hours that results from the employee's participation in an involuntary furlough program under Section 658.007 or 658.011, Government Code, may not be considered.

SECTION 9. Subchapter G, Chapter 1551, Insurance Code, is amended by adding Section 1551.325 to read as follows:

Sec. 1551.325. CONTRIBUTIONS AND PAYMENTS FROM CERTAIN EMPLOYEES. (a) An employee participating in an involuntary furlough program under Section 658.007 or 658.011, Government Code, for a period of a month or more shall make the contributions required for the coverage selected by the employee, including any amount of a salary reduction agreement under a cafeteria plan, as required by the trustee.

(b) The employee is entitled to receive compensation for any combination of paid leave, including state compensatory leave, overtime leave under the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), sick leave, or annual leave, to the extent necessary to make the required contribution.

SECTION 10. This Act takes effect October 1, 2011.