

By: Pitts

H.B. No. 2720

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. 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 includes 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

1 constitute a break in service for the state employee.

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

4 (1) state service credit for purposes of longevity
5 pay;

6 (2) vacation leave; and

7 (3) sick leave.

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

18 SECTION 2. Section 659.043, Government Code, is amended by
19 adding Subsection (c) to read as follows:

20 (c) Notwithstanding Subsections (a)(1) and (2), an employee
21 participating in an involuntary furlough program under Section
22 658.011 who is otherwise eligible for longevity pay is entitled to
23 longevity pay.

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

26 (7) "Compensation" means the base salary of a person;
27 amounts that would otherwise qualify as compensation but are not

1 received directly by a person pursuant to a good faith, voluntary,
2 written salary reduction agreement in order to finance payments to
3 a deferred compensation or tax sheltered annuity program
4 specifically authorized by state law or to finance benefit options
5 under a cafeteria plan qualifying under Section 125 of the Internal
6 Revenue Code of 1986 (26 U.S.C. Section 125); longevity and
7 hazardous duty pay; nonmonetary compensation, the value of which
8 is determined by the retirement system; amounts by which a person's
9 salary is reduced under a salary reduction agreement authorized by
10 Chapter 610; amounts by which a person's salary is reduced under an
11 involuntary furlough program under Section 658.011; and the benefit
12 replacement pay a person earns under Subchapter H, Chapter 659, [~~as~~
13 ~~added by Chapter 417, Acts of the 74th Legislature, 1995,~~] except
14 for the benefit replacement pay a person earns as a result of a
15 payment made under Subchapter B, C, or D, Chapter 661. The term
16 excludes overtime pay and a cleaning or clothing allowance.

17 SECTION 4. Subchapter C, Chapter 1551, Insurance Code, is
18 amended by adding Section 1551.1015 to read as follows:

19 Sec. 1551.1015. INVOLUNTARY FURLOUGH PROGRAM. An
20 individual is eligible to participate in the group benefits program
21 if the individual would otherwise be eligible to participate in the
22 program under this subchapter except that the individual is not
23 receiving compensation for service because the individual is
24 participating in an involuntary furlough program under Section
25 658.011, Government Code.

26 SECTION 5. Section 1551.319, Insurance Code, is amended by
27 adding Subsection (g) to read as follows:

1 (g) For purposes of determining whether an individual is a
2 full-time or part-time employee under this section, any reduction
3 in the employee's hours that results from the employee's
4 participation in an involuntary furlough program under Section
5 658.011, Government Code, may not be considered.

6 SECTION 6. Subchapter G, Chapter 1551, Insurance Code, is
7 amended by adding Section 1551.325 to read as follows:

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

15 (b) The employee is entitled to receive compensation for any
16 combination of paid leave, including state compensatory leave,
17 overtime leave under the federal Fair Labor Standards Act of 1938
18 (29 U.S.C. Section 201 et seq.), sick leave, or annual leave, to the
19 extent necessary to make the required contribution.

20 SECTION 7. Subchapter C, Chapter 1601, Insurance Code, is
21 amended by adding Section 1601.1015 to read as follows:

22 Sec. 1601.1015. INVOLUNTARY FURLOUGH PROGRAM. An
23 individual is eligible to participate in a uniform program if the
24 individual would otherwise be eligible to participate in the
25 program under this subchapter except that the individual is not
26 receiving compensation for service because the individual is
27 participating in an involuntary furlough program under Section

1 658.011, Government Code.

2 SECTION 8. Section 1601.201, Insurance Code, is amended by
3 adding Subsection (e) to read as follows:

4 (e) For purposes of determining whether an individual is a
5 full-time or part-time employee under this section, any reduction
6 in the employee's hours that results from the employee's
7 participation in an involuntary furlough program under Section
8 658.011, Government Code, may not be considered.

9 SECTION 9. Subchapter E, Chapter 1601, Insurance Code, is
10 amended by adding Section 1601.211 to read as follows:

11 Sec. 1601.211. CONTRIBUTIONS AND PAYMENTS FROM CERTAIN
12 EMPLOYEES. (a) An employee participating in an involuntary
13 furlough program under Section 658.011, Government Code, for a
14 period of a month or more shall make the contributions required for
15 the coverage selected by the employee, including any amount of a
16 salary reduction agreement under a cafeteria plan, as required by
17 the system.

18 (b) The employee is entitled to receive compensation for any
19 combination of paid leave, including state compensatory leave,
20 overtime leave under the federal Fair Labor Standards Act of 1938
21 (29 U.S.C. Section 201 et seq.), sick leave, or annual leave, to the
22 extent necessary to make the required contribution.

23 SECTION 10. This Act takes effect September 1, 2011.