

HOUSE BILL REPORT

SSB 6647

As Passed House - Amended:

February 28, 2010

Title: An act relating to protecting jobs of members of the civil air patrol while acting in an emergency service operation.

Brief Description: Protecting jobs of members of the civil air patrol while acting in an emergency service operation.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Honeyford, Swecker and Morton).

Brief History:

Committee Activity:

Commerce & Labor: 2/17/10, 2/23/10 [DPA].

Floor Activity:

Passed House: 2/28/10, 96-0.

Brief Summary of Substitute Bill (As Amended by House)

- Prohibits an employer from discharging or disciplining Civil Air Patrol members for leave related to emergency service operations.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Jill Reinmuth (786-7134).

Background:

In Washington, the general rule is that employment is "terminable at-will." In other words, an employer may discharge an employee at any time without cause, and an employee may

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

quit employment at any time without cause. Similarly, an employer may take other employment action that he or she deems appropriate.

Wrongful Discharge.

Exceptions to the general rule that employment is "terminable at-will" have been enacted by Congress and the Legislature and recognized by Washington courts. For example, an employer may not discharge an employee for exercising rights under certain federal and state laws (e.g., the federal Family and Medical Leave Act (FMLA) and the state Minimum Wage Act). An employer also may not discharge an employee because he or she is a member of a protected class under the Washington Law Against Discrimination or other anti-discrimination laws or a volunteer fire fighter or reserve officer because of leave related to emergency calls. An employer may be liable for wrongful discharge for terminating an employee because he or she refused to commit an illegal act or because he or she performed a public duty.

Wrongful Disciplinary Action.

Exceptions to the general rule that an employer may take other employment action that he or she deems appropriate also have been enacted by Congress and the Legislature. For example, an employer may not use the taking of FMLA-leave as a negative factor in employment actions, such as hiring, promotions, or disciplinary actions. An employer also may not discriminate against a person in compensation or in other terms or conditions of employment because he or she is a member of a protected class under anti-discrimination laws.

Volunteer Fire Fighters and Reserve Officers.

As noted above, a statutory exception to these general rules applies to volunteer fire fighters and reserve officers. An employer may not discharge or discipline a volunteer fire fighter or reserve officer because of leave related to an alarm of fire or an emergency call. The Department of Labor and Industries (Department) investigates and makes determinations as to the validity of complaints of such actions. If the Director of the Department determines that the employer acted unlawfully, and the employer fails to reinstate the employee or withdraw the disciplinary action, the volunteer fire fighter or reserve officer may bring an action against the employer in superior court seeking reinstatement or withdrawal of the disciplinary action. These provisions apply to employers with 20 or more employees. Civil actions related to these provisions are abolished.

Civil Air Patrol.

The Civil Air Patrol was established in 1941 and is a federally-chartered nonprofit corporation. Its members include: seniors (persons over the age of 18); and cadets (persons in sixth grade or higher and under age 19). Its purposes include: encouraging citizens to contribute their efforts, services, and resources in developing aviation and maintaining air supremacy; providing aviation education and training; encouraging civil aviation in local communities; providing an organization with adequate facilities to assist in meeting local and national emergencies; and assisting the United States Air Force in fulfilling its noncombat

programs and missions. Its missions include: search and rescue; disaster relief; support such as aerial damage assessment, filling sandbags for flood control, and light load airlift; counterdrug missions; and survey flights.

Summary of Amended Bill:

An employer may not discharge or discipline a Civil Air Patrol member because of leave related to an emergency service operation.

"Civil air patrol members" are persons who are members of the Washington wing of the Civil Air Patrol.

"Emergency service operations" are the following types of Civil Air Patrol operations:

- search and rescue missions designated by the Air Force Rescue Coordination Center;
- disaster relief or humanitarian services, when requested by the Federal Emergency Management Agency or the United States Department of Homeland Security;
- United States Air Force support designated by the first air force; and
- counterdrug missions.

These provisions are enforced in the same manner as similar provisions that apply to volunteer fire fighters and reserve officers. They apply to employers with 20 or more employees.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Civil Air Patrol started in 1941, and protected our coast from enemy attack. It is a volunteer organization. The members of the Washington Wing include about 700 adults and 550 youth. The value of their services is about \$3 million per year.

The bill would allow Civil Air Patrol members to work with their employers when emergency situations arise, so they can get time off to serve the state on various Air Force missions. Missions include search and rescue, disaster relief, aerial surveys, and counterdrug missions. The bill would stretch who could serve when situations arise during the week.

(Opposed) None.

Persons Testifying: Senator Honeyford, prime sponsor; and David Maxwell, Washington Wing Civil Air Patrol.

Persons Signed In To Testify But Not Testifying: None.