

HOUSE BILL REPORT

HB 2601

As Passed House:

February 11, 2004

Title: An act relating to unlawful discharge or discipline of reserve officers.

Brief Description: Prohibiting the unlawful discharge of reserve officers.

Sponsors: By Representatives Lovick, Carrell, Flannigan, Newhouse, Lantz, Ahern, Morrell, O'Brien, Kirby, Cooper, Moeller, McMahan, Haigh, Campbell, Rockefeller, Conway and Wood.

Brief History:

Committee Activity:

Commerce & Labor: 1/28/04, 2/3/04 [DP].

Floor Activity:

Passed House: 2/11/04, 94-0.

Brief Summary of Bill

- Prohibits employers with 20 or more employees from discharging or disciplining reserve officers because of leave related to emergency calls.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 9 members: Representatives Conway, Chair; Wood, Vice Chair; McMorris, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse, Holmquist, Hudgins, Kenney and McCoy.

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 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 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: As noted above, a statutory exception to these general rules applies to volunteer fire fighters. An employer may not discharge or discipline a volunteer fire fighter 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 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.

Summary of Bill:

The statutory exception to the general rule that employment is "terminable-at-will" for volunteer fire fighters is extended to reserve officers. "Reserve officers" are law enforcement officers who do not serve as law enforcement officers on a full-time basis, but who, when called into active service, are fully commissioned on the same basis as full-time officers to enforce criminal laws.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill

is passed.

Testimony For: Reserve officers are sometimes unable to respond to calls because they fear being discharged or disciplined by their employers. With tight budgets, local governments need reserve officers more than ever. The majority of law enforcement agencies use reserve officers. They rely on both professional and volunteer officers to provide law enforcement services to the community. September 11 awakened us to the vulnerabilities in our system. We needed to dispatch additional reserve officers, but were surprised at the number of them who feared discharge and/or discipline. In California, reserve officers have job protection. In Washington, only volunteer fire fighters have such protection. We will all be better off if we protect these officers.

Testimony Against: None.

Persons Testifying: Representative Lovick, prime sponsor; and Darrell O'Neill, Snohomish County Sheriff's Office.

Persons Signed In To Testify But Not Testifying: None.