

SENATE BILL REPORT

HB 2601

As Reported By Senate Committee On:
Commerce & Trade, February 26, 2004

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

Brief Description: Prohibiting the unlawful discharge of reserve officers.

Sponsors: 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 & Trade: 2/26/04 [DP].

SENATE COMMITTEE ON COMMERCE & TRADE

Majority Report: Do pass.

Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; Franklin, Keiser and Mulliken.

Staff: Jennifer Strus (786-7316)

Background: In Washington, the general rule is that 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 (not the fire department) also may not discharge 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.

Volunteer Fire Fighters: As noted above, a statutory exception to these general rules applies to volunteer fire fighters. An employer (not the fire department) may not discharge or discipline a volunteer fire fighter because of leave related to a fire alarm or an emergency call. The Department of Labor and Industries (L&I) investigates and determines whether complaints of such actions are valid. If the director determines that the employer acted

unlawfully, and the employer fails to reinstate the employee or withdraw the disciplinary action, the volunteer fire fighter may sue 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: Ninety days after adjournment of session in which bill is passed.

Testimony For: Many law enforcement agencies have had to rely heavily on reserve officers because of budget issues; a number of them have discovered that reserve officers are reluctant to respond to the request from law enforcement agencies because they fear that they will be fired or disciplined at their regular job. This bill will allay those fears and make it easier to recruit reserve officers.

Testimony Against: None.

Testified: PRO: Rep. John Lovick, prime sponsor; Darrell O'Neill, Snohomish County Sheriff's Office.