

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1355 Session of
1993

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HUTCHINSON, BELARDI, FARGO, CORNELL AND ADOLPH,
APRIL 21, 1993

REFERRED TO COMMITTEE ON LABOR RELATIONS, APRIL 21, 1993

AN ACT

1 Providing for employment rights of members of volunteer
2 emergency service organizations and for tax credits for
3 employers of employee-volunteers; and making a repeal.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 CHAPTER 1

7 GENERAL PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Emergency
10 Response Volunteer Employment Protection Act.

11 Section 102. Legislative findings and declaration.

12 (a) Findings enumerated.--The General Assembly finds as
13 follows:

14 (1) Over 85% of all emergency service personnel in this
15 Commonwealth are volunteers.

16 (2) Volunteer emergency service personnel have saved

1 many lives and millions of tax dollars for the citizens of
2 this Commonwealth.

3 (3) During the past decade, the ranks of volunteer
4 emergency service personnel have decreased by more than 10%.

5 (4) This decrease in manpower within this Commonwealth's
6 volunteer emergency services, coupled with increasing
7 conflicts with the volunteer's professional duties, has
8 resulted in:

9 (i) Manpower response shortages to emergency calls.

10 (ii) A decrease in the number of volunteers
11 permitted and able to participate in necessary, and
12 sometimes required, emergency service training.

13 (iii) A greater risk to those who are permitted to
14 respond to an emergency call.

15 (b) Declaration.--The General Assembly declares as follows:

16 (1) It is vital to provide new ways to attract and
17 retain volunteer emergency service personnel without placing
18 an undue burden on taxpayers or businesses throughout this
19 Commonwealth.

20 (2) It is in the public interest for the General
21 Assembly to:

22 (i) Encourage private employers to permit an
23 employee who is a member of a volunteer emergency service
24 organization to leave work in response to an emergency
25 call or respond to an emergency call prior to the start
26 of work in the employee's capacity as a member of a
27 volunteer emergency service organization, without loss of
28 pay, time or efficiency rating, by providing a tax credit
29 to the employer for the period during which the employee-
30 volunteer is absent from work because of the employee-

1 volunteer's response to an emergency call.

2 (ii) Encourage private employers to permit an
3 employee who is a member of a volunteer emergency service
4 organization to take a paid leave of absence at the
5 request of the chief executive officer of the volunteer
6 emergency service organization to which the employee-
7 volunteer belongs in order to participate in emergency
8 service training, by providing a tax credit to the
9 employer for a period of no more than five days per year
10 during which the employee-volunteer is participating in
11 emergency service training.

12 (iii) Require that the Commonwealth and its
13 political subdivisions permit an employee who is a member
14 of a volunteer emergency service organization to respond
15 to an emergency call prior to the start of work in the
16 employee's capacity as a member of a volunteer emergency
17 service organization, without loss of pay, time or
18 efficiency rating.

19 (iv) Authorize the Commonwealth and its political
20 subdivisions to permit an employee who is a member of a
21 volunteer emergency service organization to leave work in
22 response to an emergency call without loss of pay, time
23 or efficiency rating and to take a paid leave of absence
24 at the request of the chief executive officer of the
25 volunteer emergency service organization to which that
26 employee-volunteer belongs in order to participate in
27 emergency service training for a period of up to five
28 days per year.

29 Section 103. Definitions.

30 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Commonwealth." A department, agency, board, commission or
4 instrumentality of State government.

5 "Discriminate." To take any action against an employee which
6 adversely affects the employee's regular pay to any extent not
7 provided for in this act, the employee's job status or
8 opportunity for promotion or the employee's right to any benefit
9 granted by the employer to other similarly situated employees.

10 "Employee-volunteer." A member of a volunteer emergency
11 service organization who is in the employ of the Commonwealth, a
12 political subdivision or a private employer.

13 "Employer." An individual, partnership, association,
14 corporation, business trust or any person or groups of persons
15 acting directly or indirectly in the interest of an employer in
16 relation to any employee.

17 "Line of duty." All that is required or normally associated
18 with responding to and returning from an emergency call.

19 "Political subdivision." A county, city, borough,
20 incorporated town, township, including a home rule municipality,
21 school district or municipal authority.

22 "Volunteer ambulance service." A nonprofit chartered
23 corporation, association or organization located in this
24 Commonwealth which is regularly engaged in the service of
25 providing emergency medical care and transportation of patients.

26 "Volunteer emergency service organization." An organization
27 which is a volunteer fire company, volunteer ambulance service,
28 volunteer rescue squad or volunteer hazardous material response
29 team.

30 "Volunteer fire company." A nonprofit chartered corporation,

1 association or organization located in this Commonwealth which
2 provides fire protection services, including fire police
3 services, and other volunteer emergency service within this
4 Commonwealth. Volunteer emergency service provided by a
5 volunteer fire company may include volunteer ambulance and
6 volunteer rescue service.

7 "Volunteer hazardous material response team." A nonprofit
8 chartered corporation, association or organization located in
9 this Commonwealth whose members are specially trained to respond
10 to accidents or situations where hazardous or toxic materials
11 are released into the environment.

12 "Volunteer rescue service." A nonprofit chartered
13 corporation, association or organization located in this
14 Commonwealth which provides rescue service in this Commonwealth.
15 Section 104. Employment discrimination prohibited.

16 (a) General rule.--It is unlawful for the Commonwealth, a
17 political subdivision or a private employer to discriminate
18 against, refuse to hire or employ any individual because the
19 individual is a member of a volunteer emergency service
20 organization.

21 (b) Discrimination for time lost.--

22 (1) It is unlawful for the Commonwealth, a political
23 subdivision or a private employer to discipline or to
24 discharge from employment an employee who is a member of a
25 volunteer emergency service organization or to otherwise
26 discriminate against an employee-volunteer with respect to
27 compensation, hire, tenure, terms, conditions or privileges
28 of employment for the reason that the employee-volunteer
29 responded to an emergency call prior to the time the employee
30 was due to report to work, resulting in loss of time from

1 employment.

2 (2) An employee-volunteer losing time as provided in
3 this section must take the following action:

4 (i) Inform his or her employer or immediate
5 supervisor that the employee has been called to respond
6 to an emergency immediately upon arriving at work.

7 (ii) Provide his or her employer or immediate
8 supervisor with a signed statement from the chief
9 executive officer of the volunteer emergency service
10 organization to which that employee-volunteer belongs.
11 The statement must include the reason for the employee-
12 volunteer's absence and the time during which the
13 employee-volunteer was acting in the line of duty. The
14 statement must be submitted to the employer within ten
15 days from the date of absence.

16 (3) If an employee-volunteer is employed by a private
17 employer, any time lost from employment may be charged
18 against the employee's regular salary or wages or the private
19 employer may apply for the tax credits provided in section
20 201(a).

21 (4) If an employee-volunteer is employed by the
22 Commonwealth or a political subdivision, payment of salary or
23 wages for time lost from employment shall be based on a
24 policy adopted by the Commonwealth or the political
25 subdivision.

26 (c) Discrimination because of injury.--It is unlawful for
27 the Commonwealth, a political subdivision or a private employer
28 to discipline or to discharge from employment or to otherwise
29 discriminate against an employee-volunteer with respect to
30 compensation, hire, tenure, terms, conditions or privilege of

1 employment because the employee-volunteer has been injured in
2 the line of duty as a member of a volunteer emergency service
3 organization and has subsequently returned to work, regardless
4 of whether the employee-volunteer received any workers'
5 compensation benefits under the act of June 2, 1915 (P.L.736,
6 No.338), known as The Pennsylvania Workmen's Compensation Act.

7 (d) Legal action.--An employer who willfully and knowingly
8 violates the provisions of this act shall be required to revoke
9 any disciplinary action and any penalty imposed against an
10 employee-volunteer or to reinstate the employee-volunteer to his
11 or her former position. In addition, the employer shall be
12 required to pay to the employee-volunteer all lost wages and
13 benefits for the period between termination and reinstatement
14 and any reasonable attorney fees which are incurred in an action
15 to recover lost wages and benefits. An action to enforce the
16 provisions of this act shall be commenced within a period of two
17 years from the date of violation and the action shall be
18 commenced in the court of common pleas of the county in which
19 the employer is located.

20 CHAPTER 2

21 PRIVATE SECTOR INCENTIVES

22 Section 201. Emergency response tax credit.

23 (a) Authorization of credit.--Every employer engaged in a
24 for-profit business enterprise in this Commonwealth who permits
25 an employee-volunteer to leave work in response to an emergency
26 call or to respond to an emergency call prior to the start of
27 work in the employee-volunteer's capacity as a member of a
28 volunteer emergency service organization, without loss of pay,
29 time or efficiency rating, shall be eligible to receive a tax
30 credit against any tax due from that employer under Article II,

1 III, IV, VI, VII, VII-A, VIII, IX, X, XI, XII or XV of the act
2 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
3 1971, and against any payment of estimated tax or payment of
4 tentative tax due from the employer on account of the taxes.

5 (b) Calculation of credit.--The amount of the tax credit
6 available to an employer under subsection (a) shall be equal to
7 100% of the employee-volunteer's earnings for the period during
8 which the employee-volunteer is absent from work on account of
9 responding to an emergency call. The credit must be applied
10 against taxes due in the current tax year. The credit may not be
11 carried back to prior tax years, nor may it be carried forward
12 to future tax years.

13 Section 202. Training leave of absence tax credit.

14 (a) Authorization of credit.--Every employer engaged in a
15 for-profit business enterprise in this Commonwealth who permits
16 an employee-volunteer to take a paid leave of absence, at the
17 request of the chief executive officer of the volunteer
18 emergency service organization to which the employee-volunteer
19 belongs in order to participate as a student or instructor in
20 training appropriate to the volunteer emergency services
21 organization, shall be eligible to receive a tax credit against
22 any tax due from him under Article II, III, IV, VI, VII, VII-A,
23 VIII, IX, X, XI, XII or XV of the act of March 4, 1971 (P.L.6,
24 No.2), known as the Tax Reform Code of 1971, and against any
25 payment of estimated tax or payment of tentative tax due from
26 the employer on account of the taxes.

27 (b) Calculation of credit.--The amount of tax credit
28 available to an employer under subsection (a) shall be equal to
29 100% of the employee-volunteer's earnings for a period of no
30 more than five days per year during which the employee-volunteer

1 was granted and actually utilized the paid leave in order to
2 participate in training. The credit must be applied against
3 taxes due in the current tax year. The credit may not be carried
4 back to prior tax years, nor may it be carried forward to future
5 tax years.

6 Section 203. Powers and duties.

7 In addition to those powers created by any other act of the
8 General Assembly, the Secretary of Revenue shall have the
9 following powers and duties:

10 (1) To publish any rules and regulations which may be
11 required to implement this act.

12 (2) To publish, as a notice in the Pennsylvania
13 Bulletin, no later than 60 days following the effective date
14 of this act, forms which employers may use to apply for the
15 tax credit authorized by this act. The provisions of section
16 408(b) of the act of March 4, 1971 (P.L.6, No.2), known as
17 the Tax Reform Code of 1971, relating to confidentiality of
18 information required under paragraph (3), shall not apply
19 when the information is divulged for the purposes of this
20 paragraph.

21 (3) Within five months after the close of any calendar
22 year during which tax credits granted under this act were
23 used, to furnish to the members of the General Assembly an
24 annual report providing, as to each employer which used tax
25 credits during the preceding calendar year under this act,
26 the employee's name, address, standard industrial
27 classification code and the amount of tax credits granted.

28 CHAPTER 3

29 PUBLIC SECTOR INITIATIVES

30 Section 301. Emergency response leave of absence.

1 (a) Optional paid leave.--Any officer or employee of the
2 Commonwealth or a political subdivision who is a member of a
3 volunteer emergency service organization may be entitled to
4 leave work in response to an emergency call without loss of pay,
5 time or efficiency, subject to the terms and conditions of a
6 policy adopted by the Commonwealth or political subdivision.

7 (b) Official notice required.--In order to qualify for the
8 paid leave as provided for in subsection (a), the employee-
9 volunteer must:

10 (1) Inform the employer or immediate supervisor that the
11 employee has been called to respond to an emergency and
12 request that a leave of absence be granted to respond to the
13 emergency.

14 (2) Provide the employer or immediate supervisor with a
15 signed statement from the chief executive officer of the
16 volunteer emergency service organization to which the
17 employee-volunteer belongs. The statement must include the
18 reason for the employee-volunteer's absence and the time
19 during which the employee-volunteer was acting in the line of
20 duty. The statement must be submitted within ten days from
21 the date of the absence.

22 Section 302. Training leave of absence.

23 (a) Mandatory unpaid leave.--The Commonwealth and a
24 political subdivision must grant up to five days of unpaid leave
25 per year to an employee-volunteer for a period during which the
26 employee-volunteer is participating, as a student or instructor,
27 in training at the request of the chief executive officer of the
28 volunteer emergency service organization to which the employee-
29 volunteer belongs.

30 (b) Discretionary paid leave.--The Commonwealth and a

1 political subdivision shall be authorized and permitted to grant
2 up to five days of paid leave per year to an employee-volunteer
3 for a period during which the employee-volunteer is
4 participating, as a student or instructor, in training at the
5 request of the chief executive officer of the volunteer
6 emergency service organization to which the employee-volunteer
7 belongs.

8 (c) Official notice required.--In order to qualify for a
9 leave of absence under subsection (a) or (b), the employee-
10 volunteer must provide the employer or immediate supervisor with
11 a signed statement from the chief executive officer of the
12 volunteer emergency service organization to which the employee-
13 volunteer belongs. The statement must include the reason for the
14 requested leave and must be submitted at least 14 days prior to
15 the requested date of leave.

16 CHAPTER 4

17 MISCELLANEOUS PROVISIONS

18 Section 401. Repeal.

19 The act of December 1, 1977 (P.L.249, No.83), entitled, as
20 amended, "An act prohibiting employers from firing employees who
21 lose time from employment in the line of duty as volunteer
22 firemen, fire police and volunteer members of ambulance services
23 and rescue squads; and providing penalties," is repealed.

24 Section 402. Effective date.

25 This act shall take effect in 60 days.