

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 525 Session of
2005

INTRODUCED BY FORCIER, ALLEN, ARMSTRONG, BAKER, BALDWIN, BARRAR, BELARDI, BELFANTI, BENNINGHOFF, BIANCUCCI, BOYD, BROWNE, BUXTON, CALTAGIRONE, CAPPELLI, CAUSER, CAWLEY, CLYMER, CORNELL, COSTA, CRUZ, DeWEESE, J. EVANS, FABRIZIO, FAIRCHILD, FLEAGLE, FLICK, FRANKEL, FREEMAN, GABIG, GEIST, GEORGE, GERGELY, GILLESPIE, GINGRICH, GOODMAN, GRUCELA, HARHAI, HARPER, HARRIS, HASAY, HERSHEY, HESS, HUTCHINSON, KAUFFMAN, M. KELLER, KILLION, KOTIK, LEACH, LEH, MACKERETH, MANN, MARSICO, McGEEHAN, McILHATTAN, MELIO, METCALFE, MICOZZIE, S. MILLER, MUNDY, NAILOR, O'NEILL, PALLONE, PAYNE, PHILLIPS, RAMALEY, RAPP, RAYMOND, READSHAW, REICHLEY, ROHRER, ROSS, RUBLEY, SAINATO, SATHER, SCAVELLO, SCHRODER, SHANER, SOLOBAY, STABACK, STERN, R. STEVENSON, SURRA, E. Z. TAYLOR, THOMAS, TRUE, WALKO, WASHINGTON, WATSON, WILT, WOJNAROSKI, YOUNGBLOOD AND ZUG, FEBRUARY 15, 2005

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY
PREPAREDNESS, FEBRUARY 15, 2005

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 related
4 repeal.

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

7 CHAPTER 1

8 GENERAL PROVISIONS

9 Section 101. Short title.

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

12 Section 102. Legislative findings and declaration.

1 (a) Findings enumerated.--The General Assembly finds as
2 follows:

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

5 (2) Volunteer emergency service personnel have saved
6 many lives and millions of tax dollars for the citizens of
7 this Commonwealth.

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

10 (4) This decrease in manpower within this Commonwealth's
11 volunteer emergency services, coupled with increasing
12 conflicts with the volunteer's professional duties, has
13 resulted in:

14 (i) Manpower response shortages to emergency calls.

15 (ii) A decrease in the number of volunteers
16 permitted and able to participate in necessary, and
17 sometimes required, emergency service training.

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

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

21 (1) It is vital to provide new ways to attract and
22 retain volunteer emergency service personnel without placing
23 an undue burden on taxpayers or businesses throughout this
24 Commonwealth.

25 (2) It is in the public interest for the General
26 Assembly to:

27 (i) Encourage private employers to permit an
28 employee who is a member of a volunteer emergency service
29 organization to leave work in response to an emergency
30 call or respond to an emergency call prior to the start

1 of work in the employee's capacity as a member of a
2 volunteer emergency service organization, with the option
3 of pay, and no loss of time or efficiency rating, by
4 providing a tax credit to the employer for the period
5 during which the employee-volunteer is absent from work
6 because of the employee-volunteer's response to an
7 emergency call, provided the employee is in compliance
8 with a prearranged, preapproved release policy of the
9 employer.

10 (ii) Encourage private employers to permit an
11 employee who is a member of a volunteer emergency service
12 organization to take a paid leave of absence at the
13 request of the chief executive officer of the volunteer
14 emergency service organization to which the employee-
15 volunteer belongs in order to participate in emergency
16 service training by providing a tax credit to the
17 employer for a period of no more than five days per year
18 during which the employee-volunteer is participating in
19 emergency service training, provided the employee is in
20 compliance with a prearranged, preapproved release policy
21 of the employer.

22 (iii) Require that the Commonwealth and its
23 political subdivisions permit an employee who is a member
24 of a volunteer emergency service organization to respond
25 to an emergency call prior to the start of work in the
26 employee's capacity as a member of a volunteer emergency
27 service organization, with the option of pay, and no loss
28 of time or efficiency rating, provided the employee is in
29 compliance with a prearranged, preapproved release policy
30 of the Commonwealth or political subdivision.

(iv) Authorize the Commonwealth and its political subdivisions to permit an employee who is a member of a volunteer emergency service organization to leave work in response to an emergency call, with or without pay, and no loss of time or efficiency rating, and to take an optional paid leave of absence at the request of the chief executive officer of the volunteer emergency service organization to which that employee-volunteer belongs in order to participate in emergency service training for a period of up to five days per year, provided the employee is in compliance with a prearranged, preapproved release policy of the Commonwealth or political subdivision.

Section 103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

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

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

"Employer." An individual, partnership, association, corporation, business trust or any person or group of persons acting directly or indirectly in the interest of an employer in

1 relation to any employee.

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

4 "Political subdivision." A county, city, borough,
5 incorporated town, township, home rule municipality, school
6 district or municipal authority.

7 "Volunteer ambulance service." A nonprofit chartered
8 corporation, association or organization located in this
9 Commonwealth which is regularly engaged in the service of
10 providing emergency medical care and transportation of patients.

11 "Volunteer emergency service organization." An organization
12 which is a volunteer fire company, volunteer ambulance service,
13 volunteer rescue squad or volunteer hazardous material response
14 team.

15 "Volunteer fire company." A nonprofit chartered corporation,
16 association or organization located in this Commonwealth which
17 provides fire protection services, including fire police
18 services, and other volunteer emergency service within this
19 Commonwealth. Volunteer emergency service provided by a
20 volunteer fire company may include volunteer ambulance and
21 volunteer rescue service.

22 "Volunteer hazardous material response team." A nonprofit
23 chartered corporation, association or organization located in
24 this Commonwealth whose members are specially trained to respond
25 to accidents or situations where hazardous or toxic materials
26 are released into the environment.

27 "Volunteer rescue service." A nonprofit chartered
28 corporation, association or organization located in this
29 Commonwealth which provides rescue service in this Commonwealth.
30 Section 104. Employment discrimination prohibited.

1 (a) General rule.--It is unlawful for the Commonwealth, a
2 political subdivision or a private employer to discriminate
3 against, refuse to hire or employ an individual because the
4 individual is a member of a volunteer emergency service
5 organization.

6 (b) Discrimination for time lost.--

7 (1) It is unlawful for the Commonwealth, a political
8 subdivision or a private employer to discipline or to
9 discharge from employment an employee who is a member of a
10 volunteer emergency service organization or to otherwise
11 discriminate against an employee-volunteer with respect to
12 base salary, hire, tenure, terms, conditions or privileges of
13 employment for the reason that the employee-volunteer
14 responded to an emergency call prior to the time the employee
15 was due to report to work, resulting in loss of time from
16 employment, if the employee satisfies the requirements of
17 paragraph (2).

18 (2) An employee-volunteer who loses time as prohibited
19 in this section shall:

20 (i) Immediately upon arriving at work inform his or
21 her employer or immediate supervisor that the employee
22 has been called to respond to an emergency. The employee-
23 volunteer is required to report to work immediately after
24 the time the chief executive officer of the volunteer
25 emergency service organization to which that employee-
26 volunteer belongs documents the emergency service as
27 being completed.

28 (ii) Provide his or her employer or immediate
29 supervisor with a signed statement from the chief
30 executive officer of the volunteer emergency service

organization to which that employee-volunteer belongs.
The statement must include the reason for the employee-volunteer's absence and the time during which the employee-volunteer was acting in the line of duty. The statement must be submitted to the employer within ten days from the date of absence.

(3) If an employee-volunteer is employed by a private employer, any time lost from employment may be charged against the employee's regular salary or wages or the private employer may apply for the tax credits provided in section 301(a) (relating to emergency response tax credit).

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

(c) Discrimination because of injury.--It is unlawful for the Commonwealth, a political subdivision or a private employer to discipline or to discharge from employment or to otherwise discriminate against an employee-volunteer with respect to compensation, hire, tenure, terms, conditions or privilege of employment because the employee-volunteer has been injured in the line of duty as a member of a volunteer emergency service organization and has subsequently returned to work, regardless of whether the employee-volunteer received any workers' compensation benefits under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

(d) Legal action.--An employer who willfully and knowingly violates the provisions of this act shall:

(1) Revoke any disciplinary action and any penalty

1 imposed against an employee-volunteer or reinstate the
2 employee-volunteer to his or her former position.

3 (2) Pay to the employee-volunteer all lost wages and
4 benefits for the period between termination and reinstatement
5 and any reasonable attorney fees which are incurred in an
6 action to recover lost wages and benefits.

7 (e) Period of limitations.--An action to enforce the
8 provisions of this act shall be commenced within a period of two
9 years from the date of violation and the action shall be
10 commenced in the court of common pleas of the county in which
11 the employer is located.

12 CHAPTER 3

13 PRIVATE SECTOR INCENTIVES

14 Section 301. Emergency response tax credit.

15 (a) Authorization of credit.--Every employer engaged in a
16 for-profit business enterprise in this Commonwealth who permits
17 an employee-volunteer to leave work in response to an emergency
18 call or to respond to an emergency call prior to the start of
19 work in the employee-volunteer's capacity as a member of a
20 volunteer emergency service organization, without loss of pay,
21 time or efficiency rating, shall be eligible to receive a tax
22 credit against any tax due from that employer under Article II,
23 III, IV, VI, VII, VII-A, VIII, IX, X, XI, XII or XV of the act
24 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
25 1971, and against any payment of estimated tax or payment of
26 tentative tax due from the employer on account of the taxes.

27 (b) Calculation of credit.--The amount of the tax credit
28 available to an employer under subsection (a) shall be equal to
29 100% of the employee-volunteer's earnings for the period during
30 which the employee-volunteer is absent from work on account of

1 responding to an emergency call. The credit must be applied
2 against taxes due in the current tax year. The credit may not be
3 carried back to prior tax years, nor may it be carried forward
4 to future tax years.

5 Section 302. Training leave of absence tax credit.

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

19 (b) Calculation of credit.--The amount of tax credit
20 available to an employer under subsection (a) shall be equal to
21 100% of the employee-volunteer's earnings for a period of no
22 more than five days per year during which the employee-volunteer
23 was granted and actually utilized the paid leave in order to
24 participate in training. The credit must be applied against
25 taxes due in the current tax year. The credit may not be carried
26 back to prior tax years, nor may it be carried forward to future
27 tax years.

28 Section 303. Powers and duties.

29 In addition to those powers created by any other act of the
30 General Assembly, the Secretary of Revenue shall have the

1 following powers and duties:

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

4 (2) To publish, as a notice in the Pennsylvania
5 Bulletin, no later than 60 days following the effective date
6 of this act, forms which employers may use to apply for the
7 tax credit authorized by this act. The provisions of section
8 408(b) of the act of March 4, 1971 (P.L.6, No.2), known as
9 the Tax Reform Code of 1971, relating to confidentiality of
10 information required under paragraph (3), shall not apply
11 when the information is divulged for the purposes of this
12 paragraph.

13 (3) To furnish to the members of the General Assembly
14 within five months after the close of any calendar year
15 during which tax credits granted under this act were used an
16 annual report providing, as to each employer which used tax
17 credits during the preceding calendar year under this act,
18 the employee's name, address, standard industrial
19 classification code and the amount of tax credits granted.

20 CHAPTER 5

21 PUBLIC SECTOR INITIATIVES

22 Section 501. Emergency response leave of absence.

23 (a) Optional paid leave.--An officer or employee of the
24 Commonwealth or a political subdivision who is a member of a
25 volunteer emergency service organization may be entitled to
26 leave work in response to an emergency call without loss of pay,
27 time or efficiency, subject to the terms and conditions of a
28 policy adopted by the Commonwealth or political subdivision.

29 (b) Official notice required.--In order to qualify for the
30 paid leave as provided for in subsection (a), the employee--

1 volunteer must:

2 (1) Inform his or her employer or immediate supervisor
3 that the employee has been called to respond to an emergency
4 and request that a leave of absence be granted to respond to
5 the emergency.

6 (2) Report to work immediately after the time the chief
7 executive officer of the volunteer emergency service
8 organization to which that employee-volunteer belongs
9 documents the emergency service as being completed.

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

18 Section 502. Training leave of absence.

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

26 (b) Discretionary paid leave.--In addition to the days of
27 unpaid leave set forth in subsection (a), the Commonwealth and a
28 political subdivision may grant up to five days of paid leave
29 per year to an employee-volunteer for a period during which the
30 employee-volunteer is participating, as a student or instructor,

1 in training at the request of the chief executive officer of the
2 volunteer emergency service organization to which the employee-
3 volunteer belongs.

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

12 CHAPTER 7

13 MISCELLANEOUS PROVISIONS

14 Section 701. Repeal.

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

20 Section 702. Effective date.

21 This act shall take effect in 60 days.