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FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/2006
 LAST UPDATED 2/14/2006 HB 240

SPONSOR Stapleton

SHORT TITLE Volunteer Emergency Responder Job Termination SB _____

ANALYST Moser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to HB 40

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AG)
 Department of Health (DOH)
 State Personnel Office (SPO)
 Department of Public Education (PED)

SUMMARY

Synopsis of Bill

The Volunteer Emergency Responder Job Termination Bill prohibits an employer from terminating, demoting or discriminating against an employee for absences from work related to volunteer emergency responses. The Bill limits the absences to 10 days per calendar year. The employer may 1) ask for written verification from the office of emergency management or state or local official in charge and 2) withhold employee's regular pay during absence. The employee must make reasonable efforts to notify the employer that he/she will be absent. The Bill gives the employee a private cause of action for discrimination to be brought within one year of the discriminatory act. Damages include reinstatement, back wages, and reinstatement of seniority rights where appropriate.

FISCAL IMPLICATIONS

The PED indicates that the bill may require public schools to make emergency arrangements to provide coverage for employees who are absent to respond to an event declared an emergency or disaster by the Governor or President.

SIGNIFICANT ISSUES

DOH indicates that the definition of volunteer emergency responder includes volunteer fire and emergency medical services personnel, law enforcement officers, search and rescue team members, and individuals enrolled as volunteers by the state or a political subdivision of the state for response to an emergency or disaster. An employee who is absent would need to make efforts to notify the employer of the absence, and continue to notify the employer during the absence, as feasible. The employer may request written verification from the emergency organization or official who manages the emergency of the time period that the employee served as a volunteer responder. An employer may charge against an employee's regular pay time during the employee's absence while serving as an emergency responder. Should an employee be terminated or otherwise discriminated in violation of the Volunteer Emergency Responder Job Protection Act, the employee may bring a cause of action seeking reinstatement of the position, associated benefits and back wages within one year from the date of the violation.

PED express concern that the bill does not specifically address whether members of the New Mexico National Guard are included.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB240 relates to HB40 that proposes that health professional volunteers deployed by the New Mexico Department of Health (DOH) in response to a declared emergency shall be considered public employees for the purposes of the Workers' Compensation Act.

TECHNICAL ISSUES

- DOH points out that HB 240 does not indicate the consequences to an employee who is absent more than 10 days in one period, or an employee who is deployed multiple times to respond to a single disaster. It should be noted that this occurred in large disasters, such as the Cerro Grande Fire in 2000, terrorist attacks in NY and Washington in 2001. More recently, Hurricane Katrina, September 2005, many individuals were deployed for a period of time in excess of 10 days.
- Employees who serve as volunteer emergency responders should be required to pre-identify their volunteer affiliation with their employers so that back-up plans can be in place at their place of employment when these individuals are called on to respond.

EM/nt