

SUBJECT: Rights of pregnant municipal and county employees

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 5 ayes — Chisum, G. Lewis, Muñoz, Wohlgemuth, R. Lewis
0 nays
4 absent — Gutierrez, Hamric, Kamel, Longoria

SENATE VOTE: On final passage, March 29 — voice vote

WITNESSES: (*On House companion, HB 1951*):

For — Ronald G. DeLord, Combined Law Enforcement Associations of Texas

Against — None

BACKGROUND: Since 1978 the federal Pregnancy Discrimination Act has barred discrimination "because of or on the basis of pregnancy, childbirth or related medical condition."

DIGEST: SB 540 would require municipalities and counties to make reasonable efforts to accommodate public employees whose physicians determine them to be partially physically restricted due to pregnancy. Cities and counties would be required to offer a temporary work assignment that the employee was capable of performing, if such was available and if the employee's physician certified an inability to perform the permanent work assignment. SB 540 would take effect September 1, 1995.

SUPPORTERS SAY: Statistics from the Equal Employment Opportunity Commission show pregnancy discrimination complaints are up nearly 48 percent since 1990. Refusing light duty to a pregnant female while permitting it for other employees, male or female, who have injuries or other temporary limitations is a common complaint. This bill would help local governments and their employees avoid such complaints of discrimination and the lawsuits that sometimes result.

More women are entering the work force and many of them are of child-bearing age. While some businesses, counties or municipalities want to appear pro-family, they sometimes create barriers that work against family formation. Lawsuits may result when women are denied a chance to continue working while pregnant or are otherwise discriminated against. Police officers have been denied temporary, non-patrol (light duty) work assignments or have been fired when they became pregnant.

Pregnant employees who are temporarily incapable of performing full job duties should be given the same opportunity that a physically injured or ill employee would be given, depending on the practice of the agency regarding temporarily disability. If an injured police officer would be given a light duty assignment, the same treatment should be afforded a pregnant officer whose doctor certifies the necessity of such action.

SB 540 would not mandate local governments to place a pregnant employee in a less strenuous job nor would it require that they create a position if one were not available. If, however, the employee's physician determined that the employee could not perform the usual duties associated with her permanent assignment, the municipality or county would have to make a reasonable attempt to reassign the employee to a temporary work assignment if one was available.

**OPPONENTS
SAY:**

SB 540 would carry out its intent more effectively if it contained some penalties or offered employees clear recourse if the law were broken. The bill already offers a large loophole for employers by stipulating that an alternative work assignment must be offered only if available and only requiring "reasonable effort."