

SUBJECT: Workers' compensation coverage for disaster volunteers

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 8 ayes — Brimer, Dukes, George, Giddings, Siebert, Ritter, Solomons, Woolley
1 nay — Corte

WITNESSES: For — Steve Bass, Texas Fire Chiefs Association
Against — None
On — Jim Arnold, Texas Engineering Extension Service; Scott McAnally, Research and Oversight Council

DIGEST: CSHB 2706 would provide that a volunteer performing services for the state during a disaster would be entitled to workers' compensation medical benefits for an injury sustained while providing those services, if the person was not otherwise covered by workers' compensation. Only a person working under the direction of an officer or employee of the state would be entitled to benefits. To be covered, the injury would have to occur while a state of disaster was considered in existence.

A volunteer employed by a political subdivision would be entitled to benefits only if the services were performed outside of the jurisdiction of that political subdivision.

A person would be entitled to benefits only if the person sought medical attention from a doctor within 48 hours of the injury. The person also would have to notify the agency for which volunteer services were performed, subject to the requirements for notifying an employer of an injury detailed in section 409.001 of the Labor Code.

The bill would define "disaster" as an event in which the governor had issued a declaration of a state of disaster or an event that initiated the state emergency management plan.

The bill would take effect on September 1, 1999, and would apply only to a claim for medical benefits based on an injury occurring after the effective date.

**SUPPORTERS
SAY:**

CSHB 2706 would provide workers' compensation benefits to volunteers who are not otherwise covered if they were injured while helping the state during a disaster. The bill would support the efforts of Texans who volunteer to help in disaster situations, which, in turn, would help disaster victims and the providers of state emergency assistance. In a state prone to tornados, floods, and hurricanes, policy makers should do all that they can to encourage the good will and volunteer spirit of many brave individuals who volunteer to help.

Many disaster volunteers are professional fire fighters and emergency medical personnel who are employees of local governments. When called on by the state, local governments release these employees, continuing to pay their salaries while they are extending crucial aid in emergency situations.

Unfortunately, local governments are becoming increasingly concerned about their liability for workers' compensation benefits in the event an employee is injured in this situation. Some local governments have indicated that they will not permit their employees to participate in disaster relief efforts, even when called upon by the state, if they are liable for injuries in these situations.

This bill would not be limited to local government employees, but would extend the same workers' comp medical benefit protections to ordinary citizens and volunteers and employees of humanitarian groups acting under the direction of a state official.

Most people who volunteer in an emergency are not preoccupied with issues like potential workers' compensation coverage. Limiting the workers' compensation benefits to medical coverage only would not be a disincentive to the kind of people who reach out to help others. Rather, extending the benefits would show that the state of Texas stands ready to do the right thing for its volunteers.

OPPONENTS
SAY:

CSHB 2706 would not fully cover a volunteer if that person was injured while serving the state in an emergency. This partial coverage while serving the state would not encourage volunteerism.

Employees with workers' compensation coverage typically are entitled to medical and income benefits, and their families are entitled to benefits in the case of accidental death. This bill would provide only for medical benefits, so a person who was severely injured while serving the state would not be compensated for lost salary. The family of a person killed while volunteering for the state would receive no accidental death benefits, since they are not considered 'medical' benefits.

NOTES:

The committee substitute would:

- ! expand the definition of disaster;
- ! specify that a person would be covered by the bill if not otherwise covered by workers' compensation coverage;
- ! provide that an employee of a political subdivision would be covered only if the injury occurred outside jurisdiction; and
- ! specify the reporting requirements for an injured volunteer.

The companion bill, SB 1324 by Gallegos, was reported favorably, as substituted, by the Senate Human Services Committee on April 23 and recommended for the Local and Uncontested Calendar.