

BILL ANALYSIS

H.B. 318
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that many volunteer firefighters are unable to discharge their emergency response duties to assist in massive, uncontained wildfires because state law does not fully protect them from termination by their employer. This lack of protection may be contributing to higher losses from fires and longer-lasting fire disasters, since volunteers are discouraged from being late to or absent from their jobs when responding to emergencies. Volunteer firefighters are a vital and often sole resource for communities facing these disasters, especially in rural areas. It is imperative that these firefighters have the ability to respond in their volunteer capacity without the fear of losing their job. H.B. 318 seeks to address this issue by prohibiting certain employment discrimination against an employee who is a volunteer emergency responder.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 318 amends the Labor Code to prohibit an applicable employer from terminating or suspending the employment of, or in any other manner discriminating against, an employee who is a volunteer emergency responder and is absent from or late to the employee's employment because the employee is responding to an emergency in that capacity. The bill sets the maximum number of absences in a calendar year for such an employee at 14 days unless the absence is approved by the employer.

H.B. 318 requires an applicable employee to make a reasonable effort to notify the employer that the employee may be absent or late and, if the employee is unable to do so due to the extreme circumstances of the emergency or inability to contact the employer, to submit certain written verification of participation in an emergency activity. The bill authorizes an employer to take either of the following actions:

- reduce the wages otherwise owed to the employee for any pay period in which the employee took time off for an absence authorized by the bill; or
- require the employee to use existing vacation leave time, personal leave time, or compensatory leave time for such an absence, except as otherwise provided by a collective bargaining agreement.

The bill expressly does not affect certain statutory rights to wages or leave time for employees of a state agency or public institution of higher education who are volunteer firefighters, emergency medical services volunteers, or search and rescue volunteers.

H.B. 318 entitles an employee whose employment is suspended or terminated in violation of the bill's provisions to the following remedies:

- reinstatement to the employee's former position or a comparable position in terms of conditions of employment;
- compensation for wages lost during the period of suspension or termination; and
- reinstatement of any fringe benefits and seniority rights lost because of the suspension or termination.

The bill authorizes an employee whose employer violates the bill's provisions to bring a civil action against the employer to enforce the employee's affected rights. Such an action must be brought in the county in which the place of employment is located not later than the first anniversary of the date of the violation.

EFFECTIVE DATE

September 1, 2021.