

BILL ANALYSIS

Senate Research Center
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S.B. 612
By: Burton; Zaffirini
Natural Resources & Economic Development
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Volunteer firefighters make up over 70 percent of fire services in Texas. They are the first line of defense for our communities in times of emergency. During state-declared emergencies such as the Bastrop fire, volunteer firefighters in the immediately affected areas are often torn between the desire to fight for their community and the fear of losing their job due to the extended absence required to serve. As a consequence, surrounding communities bear a heavier volunteer burden. This results in a ripple effect of both labor force and volunteer shortages.

This bill helps alleviate the concern that a volunteer firefighter could lose his or her job because of absences due to a state-declared emergency. These emergencies are rare, and can only be declared by the Governor or President. Examples include the Bastrop fire and the West tragedy. Because volunteer firefighters make up such a large percentage of Texas' response teams, it is important that they feel comfortable serving the state without fear of unemployment. This bill does not require employers to pay the volunteers during their time off. Employers can require volunteers to use personal time, compensatory leave time, or vacation time. This simply ensures that a volunteer will not lose his or her job as a result of volunteering for an emergency should the volunteer choose to do so.

As proposed, S.B. 612 amends current law relating to the prohibition of certain employment discrimination regarding an employee who is a volunteer emergency responder.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 2, Labor Code, by adding Chapter 23, as follows:

CHAPTER 23. EMPLOYMENT DISCRIMINATION REGARDING VOLUNTEER EMERGENCY RESPONDERS

Sec. 23.001. DEFINITIONS. Defines "emergency," "emergency medical services," "emergency medical services volunteer," "emergency service organization," "employee," "employer," "political subdivision," "volunteer emergency responder," "volunteer fire department," and "volunteer firefighter."

Sec. 23.002. DISCRIMINATION PROHIBITED; LIMITATION. (a) Prohibits an employer from terminating or suspending the employment of, or in any other manner discriminate against, an employee who is a volunteer emergency responder and who is absent from or late to the employee's employment because the employee is responding to an emergency in the employee's capacity as a volunteer emergency responder, except as provided by this chapter.

(b) Provides that an employee who is a volunteer emergency responder is not entitled under this chapter to be absent from the employee's employment for more than 14 days in a calendar year unless the employee's absence is approved by the employer, notwithstanding Subsection (a).

Sec. 23.003. NOTICE TO EMPLOYER. Requires an employee who is a volunteer emergency responder and who may be absent from or late to employment because the employee is responding to an emergency as a volunteer emergency responder make a reasonable effort to notify the employer that the employee may be absent or late. Requires the employee to submit to the employer, on the employer's request, a written verification of participation in an emergency activity, if the employee is unable to provide the notice due to the extreme circumstances of the emergency or inability to contact the employer, that:

(1) is signed by the supervisor, or the designee of the supervisor, of the entity for which the affected volunteer emergency responder provides services or the applicable emergency service organization; and

(2) states that the volunteer emergency responder responded to an emergency and provides information regarding the emergency.

Sec. 23.004. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME. (a) Authorizes an employer to reduce the wages otherwise owed to the employee for any pay period because the employee took time off during that pay period for an absence authorized by this chapter.

(b) Authorizes an employer to require an employee who is a volunteer emergency responder to use existing vacation leave time, personal leave time, or compensatory leave time for an absence authorized by this chapter, except as otherwise provided by a collective bargaining agreement in lieu of reducing an employee's wages under Subsection (a).

(c) Provides that this section does not affect an employee's right to wages or leave time under Section 661.905 (Volunteer Firefighters and Emergency Medical Services Volunteers), Government Code.

Sec. 23.005. LIABILITY; REINSTATEMENT. Provides that an employee whose employment is suspended or terminated in violation of this chapter is entitled to:

(1) reinstatement to the employee's former position or a position that is comparable in terms of compensation, benefits, and other conditions of employment;

(2) compensation for wages lost during the period of suspension or termination; and

(3) reinstatement of any fringe benefits and seniority rights lost because of the suspension or termination.

Sec. 23.006. CIVIL ACTION. (a) Authorizes an employee whose employer violates this chapter to bring a civil action against the employer to enforce rights protected by this chapter.

(b) Requires that an action under this section 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.

SECTION 2. Makes application of Chapter 23, Labor Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2015.