

BILL ANALYSIS

C.S.H.B. 3378

By: Pena
Defense Affairs & State-Federal Relations
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas is an at-will employment state. With regards to discrimination, there are several protected classes of employees based on race, color, sex, national origin, religion, age and disability. Under current law, an employer may not terminate the employment of a person called to active duty in our military forces, and the employer must reinstate the employee upon their return from active duty. With tours of duty lengthening, the employment status of our returning troops needs additional protection.

This bill will increase the penalty for employment discrimination for returning personnel who have been called to duty to serve in our military forces.

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

This bill entitles members of the state military forces who have been injured by a violation of Section 431.006, Government Code, to compensatory damages and punitive damages. This bill also states that a complainant may recover punitive damages against a respondent if the complainant demonstrates that the respondent's violation of this section was with malice or with reckless indifference to the rights of the complainant.

Compensatory damages awarded may not include back pay or interest on back pay. Additionally, the sum of the amount of compensatory damages awarded for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded may not exceed the amounts found in Chapter 21 of the Texas Labor Code.

EFFECTIVE DATE

This Act takes effect immediately if it receives the necessary vote, otherwise it takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The Substitute simply references Chapter 21 of the Texas Labor Code for maximum amounts of damages that may be awarded instead of listing them in the bill.