

By: Pena

H.B. No. 3378

A BILL TO BE ENTITLED

1 AN ACT

2 relating to damages that may be awarded against an employer who  
3 terminates or refuses to reemploy certain employees who are members  
4 of the state military forces.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 431.006, Government Code, is amended by  
7 amending Subsection (b) and adding Subsections (e)-(h) to read as  
8 follows:

9 (b) A person injured by a violation of this section is  
10 entitled to:

11 (1) compensatory damages [~~in an amount not exceeding~~  
12 ~~six months' compensation at the rate at which the person was~~  
13 ~~compensated when ordered to training or duty]; [~~and~~]~~

14 (2) punitive damages; and

15 (3) reasonable attorney's fees approved by the court.

16 (e) A complainant may recover punitive damages against a  
17 respondent if the complainant demonstrates that the respondent's  
18 violation of this section was with malice or with reckless  
19 indifference to the rights of the complainant.

20 (f) Compensatory damages awarded under this section may not  
21 include:

22 (1) back pay; or

23 (2) interest on back pay.

24 (g) The sum of the amount of compensatory damages awarded

1 under this section for future pecuniary losses, emotional pain,  
2 suffering, inconvenience, mental anguish, loss of enjoyment of  
3 life, and other nonpecuniary losses and the amount of punitive  
4 damages awarded under this section may not exceed, for each  
5 complainant:

6 (1) \$50,000 in the case of a respondent that has not  
7 more than 100 employees;

8 (2) \$100,000 in the case of a respondent that has at  
9 least 101 and not more than 200 employees;

10 (3) \$200,000 in the case of a respondent that has at  
11 least 201 and not more than 500 employees; and

12 (4) \$300,000 in the case of a respondent that has at  
13 least 501 employees.

14 (h) For the purposes of Subsection (g), in determining the  
15 number of employees of a respondent, the requisite number of  
16 employees must be employed by the respondent for each of 20 or more  
17 calendar weeks in the current or preceding calendar year.

18 SECTION 2. The change in law made by this Act applies only  
19 to an action filed under Section 431.006, Government Code, on or  
20 after the effective date of this Act. An action filed under Section  
21 431.006, Government Code, before the effective date of this Act is  
22 governed by the law in effect on the date the action was filed, and  
23 the former law is continued in effect for that purpose.

24 SECTION 3. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2005.