

By: Gallegos

S.B. No. 633

A BILL TO BE ENTITLED

AN ACT

relating to hours of labor in certain fire departments.

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

SECTION 1. Section 142.0015 (b), (c), (d) and (e), Local Government Code, is amended to read as follows:

§ 142.0015. Hours of Labor and Vacation of Members of Fire and Police Departments in Municipality With Population of More Than 10,000

(a) This section applies only in a municipality with a population of more than 10,000.

(b) A fire fighter or a member of a fire department who provides emergency medical services other than the Fire Chief or the Assistant Chief or it's equivalent classification ~~who is not exempt under the Fair Labor Standards Act of 1938, 29 U.S.C. Section 201 et seq.,~~ and who is required or permitted to work more than the number of hours that bears the same ratio to 212 hours as the number of days in the work period bears to 28 days is considered to have worked overtime. The person is entitled to be compensated for the overtime as provided by Subsection (e).

(c) A member of a fire department who does not fight fires or provide emergency medical services, including a mechanic, clerk, investigator, inspector, fire marshal, fire alarm dispatcher, and maintenance worker, other than the Fire Chief or the Assistant Chief or it's equivalent classification ~~who is not exempt under the~~

1 ~~Fair Labor Standards Act of 1938, 29 U.S.C. section 201 et seq.,~~ and
2 who is required or permitted to average more hours in a week than
3 the number of hours in a normal work week of the majority of the
4 employees of the municipality other than fire fighters, emergency
5 medical service personnel, and police officers, is considered to
6 have worked overtime. The person is entitled to be compensated for
7 the overtime as provided by Subsection (e).

8 (d) In computing the hours worked in a work week or the
9 average number of hours worked in a work week during a work cycle of
10 a fire fighter or other member of a fire department covered by this
11 section ~~and 29 U.S.C. Section 207(k) and as provided by Subsections~~
12 ~~(b) and (c),~~ all hours are counted during which the fire fighter or
13 other member of a fire department is required to remain on call on
14 the employer's premises or so close to the employer's premises that
15 the person cannot use those hours effectively for that person's own
16 purposes. Hours in which the fire fighter or other member of a fire
17 department is required only to leave a telephone number at which
18 that person may be reached or ~~is required~~ to remain accessible by
19 radio or pager are not counted. In computing the hours in a work
20 week or the average number of hours in a work week during a work
21 cycle of a fire fighter or a member of a fire department who
22 provides emergency medical services, vacation, sick time,
23 holidays, time in lieu of holidays, or compensatory time may be
24 excluded as hours worked.

25 (e) A fire fighter or other member of a fire department may
26 be required or permitted to work overtime. A fire fighter or other
27 member of a fire department other than the Fire Chief or the

1 Assistant Chief or it's equivalent classification ~~who is not exempt~~
2 ~~under the Fair Labor Standards Act of 1938, 29 U.S.C. Section 201 et~~
3 ~~seq., and~~ who is required or permitted to work overtime as provided
4 by Subsections (b) and (c) is entitled to be paid overtime for the
5 excess hours worked without regard to the number of hours worked in
6 any one week of the work cycle. Overtime hours are paid at a rate
7 equal to 1-1/2 times the compensation paid to the fire fighter or
8 member of the fire department for regular hours.

9 SECTION 2. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2007.