

By: Maldonado, Corte, Fletcher, Peña,
Edwards

H.B. No. 2806

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the reinstatement of a firefighter or police officer to
3 a previously held position based on seniority on the return of
4 another firefighter or police officer from a military leave of
5 absence.

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

7 SECTION 1. Sections 143.072(c) and (f), Local Government
8 Code, are amended to read as follows:

9 (c) While a fire fighter or police officer who received a
10 military leave of absence serves in the military, the commission
11 shall fill the person's position in the department in accordance
12 with this chapter. [~~The fire fighter or police officer who fills
13 the position is subject to replacement by the person who received
14 the military leave at the time the person returns to active duty in
15 the department.~~]

16 (f) If the reinstatement of a fire fighter or police officer
17 who received a military leave of absence causes a surplus in the
18 rank to which the fire fighter or police officer was reinstated, the
19 fire fighter or police officer who has the least seniority in the
20 position shall [~~that person's replacement to~~] be returned to the [~~a~~
21 ~~lower~~] position immediately below the position to which the
22 returning fire fighter or police officer was reinstated. If a fire
23 fighter or police officer is returned to a lower position in grade
24 or compensation under this subsection without charges being filed

1 against the person for violation of civil service rules, the fire
2 fighter or police officer shall be placed on a position
3 reinstatement list in order of seniority. Appointments from the
4 reinstatement list shall be made in order of seniority. A person who
5 is not on the reinstatement list may not be appointed to a position
6 to which the list applies until the list is exhausted [~~the~~
7 ~~replaced person has a preferential right to a subsequent~~
8 ~~appointment or promotion to the same or a similar position from~~
9 ~~which the person was demoted. This preferential right has priority~~
10 ~~over an eligibility list and is subject to the replaced person~~
11 ~~remaining physically and mentally fit to discharge the duties of~~
12 ~~that position].~~

13 SECTION 2. The change in law made by this Act applies only
14 to a firefighter or police officer who is returned to a lower
15 position in grade or compensation on or after the effective date of
16 this Act. A firefighter or police officer who is returned to a
17 lower position in grade or compensation before the effective date
18 of this Act is covered by the law in effect immediately before that
19 date, and the former law is continued in effect for that purpose.

20 SECTION 3. This Act takes effect September 1, 2009.