

By: Turner of Tarrant

H.B. No. 881

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of a cause of action for an employee
3 prohibited from or penalized for voting.

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

5 SECTION 1. Section 276.004, Election Code, is amended by
6 amending Subsections (a), (c), and (d) and adding Subsection (e) to
7 read as follows:

8 (a) A person may not [~~commits an offense if~~], with respect
9 to another person over whom the person has authority in the scope of
10 employment, [~~the person~~] knowingly:

11 (1) refuse [~~refuses~~] to permit the other person to be
12 absent from work on election day for the purpose of attending the
13 polls to vote; or

14 (2) subject [~~subjects~~] or threaten [~~threatens~~] to
15 subject the other person to a penalty for attending the polls on
16 election day to vote.

17 (c) In this section, "penalty" means a loss or reduction of
18 wages or another benefit of employment, termination of employment,
19 or other adverse personnel action.

20 (d) A person who violates Subsection (a) commits an offense.
21 An offense under this subsection [~~section~~] is a Class C
22 misdemeanor.

23 (e) A person may bring suit in district court against the
24 person's employer for violating this section. A person must bring

1 suit on an action arising under this section not later than the
2 first anniversary of the day the cause of action accrues.

3 SECTION 2. Chapter 276, Election Code, is amended by adding
4 Section 276.0041 to read as follows:

5 Sec. 276.0041. REMEDIES. (a) On finding that an employer
6 violated Section 276.004, a court may award the complainant in a
7 suit brought under Section 276.004(e):

8 (1) compensatory damages, including back pay, front
9 pay, and interest on back pay or front pay;

10 (2) punitive damages to the extent provided by
11 Subsection (b);

12 (3) reasonable attorney's fees; and

13 (4) additional equitable relief as may be appropriate,
14 including reinstatement to employment.

15 (b) A complainant may recover punitive damages against an
16 employer, other than an employer that is a governmental entity, if
17 the complainant demonstrates that the violation of Section 276.004
18 was committed with malice or with reckless indifference to the
19 state-protected rights of an aggrieved individual.

20 (c) The sum of the amount of compensatory damages awarded
21 under this section for future pecuniary losses, emotional pain,
22 suffering, inconvenience, mental anguish, loss of enjoyment of
23 life, and other nonpecuniary losses and the amount of punitive
24 damages awarded under this section may not exceed, for each
25 complainant:

26 (1) \$50,000 in the case of an employer that has fewer
27 than 101 employees;

1 (2) \$100,000 in the case of an employer that has more
2 than 100 and fewer than 201 employees;

3 (3) \$200,000 in the case of an employer that has more
4 than 200 and fewer than 501 employees; and

5 (4) \$300,000 in the case of an employer that has more
6 than 500 employees.

7 (d) For the purposes of Subsection (c), in determining the
8 number of employees of an employer, the requisite number of
9 employees must be employed by the employer for each of 20 or more
10 calendar weeks in the current or preceding calendar year.

11 (e) Interim earnings, workers' compensation benefits, and
12 unemployment compensation benefits received operate to reduce the
13 back pay otherwise allowable under this section.

14 (f) Sovereign immunity to suit and from liability is waived
15 to the extent of liability created under this section for a
16 violation of Section 276.004, and an employee may sue a
17 governmental entity for damages allowed under this section.

18 SECTION 3. This Act takes effect September 1, 2013.