

BILL ANALYSIS

Senate Research Center
86R34234 KSD-D

C.S.H.B. 2348
By: King, Tracy O.; Flynn (Perry)
Natural Resources & Economic Development
5/16/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2348 amends the Labor Code to prohibit an employer from terminating or suspending the employment of, or in any other manner discriminating against, an employee who is a volunteer emergency responder and is absent from or late to the employee's employment because the employee is responding to an emergency as a volunteer emergency responder. The bill sets the maximum number of absences in a calendar year for such an employee at 14 days unless the absence is approved by the employer.

H.B. 2348 requires the employee to make a reasonable effort to notify an employer that the employee may be absent or late and to submit written verification of participation in an emergency that meets certain requirements, if the employee is unable to notify the employer due to the extreme circumstances of the emergency or inability to contact the employer. The bill authorizes an employer to reduce the wages otherwise owed to the employee for any pay period due to the employee's time off for an authorized absence or to require the employee to use existing vacation leave time, personal leave time, or compensatory leave time for the absence, except as otherwise provided by a collective bargaining agreement. The bill expressly does not affect an employee's right to wages or leave time under statutory provisions relating to leave for volunteer firefighters and emergency medical services volunteers.

H.B. 2348 entitles an employee whose employment is suspended or terminated in violation of the bill's provisions to reinstatement to the employee's former position or a comparable position in terms of conditions of employment, compensation for wages lost during the period of suspension or termination, and reinstatement of any fringe benefits and seniority rights lost because of the suspension or termination. The bill authorizes an employee whose employer violates the bill's provisions to bring a civil action against the employer to enforce rights protected by the bill's provisions and requires such an action to be brought in the county in which the place of employment is located not later than the first anniversary of the date of the violation. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 2348 amends current law relating to the prohibition of certain employment discrimination regarding an employee who is a volunteer emergency responder.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 2, Labor Code, by adding Chapter 24, as follows:

CHAPTER 24. EMPLOYMENT DISCRIMINATION REGARDING VOLUNTEER EMERGENCY RESPONDERS

Sec. 24.001. DEFINITIONS. Defines "declared disaster," "emergency," "emergency medical services," "emergency medical services volunteer," "emergency service organization," "employee," "employer," "political subdivision," "volunteer emergency

responder," "volunteer fire department," and "volunteer firefighter" for purposes of this chapter.

Sec. 24.002. DISCRIMINATION PROHIBITED; LIMITATION. (a) Prohibits an employee, except as provided by this chapter, from terminating or suspending the employment of, or in any other manner discriminating against, an employee who is a volunteer emergency responder and who is absent from or late to the employee's employment because the employee is responding to a declared disaster in the employee's capacity as a volunteer emergency responder.

(b) Provides that, notwithstanding Subsection (a), an employee who is a volunteer emergency responder is not entitled under this chapter to be absent from the employee's employment for more than 14 days in a calendar year unless the employee's absence is approved by the employer.

Sec. 24.003. NOTICE TO EMPLOYER. Provides that an employee who is a volunteer emergency responder and who is authorized to be absent from or late to employment because the employee is responding to a declared disaster as a volunteer emergency responder is required to make a reasonable effort to notify the employer that the employee may be absent or late. Requires the employee, if the employee is unable to provide the notice due to the extreme circumstances of declared disaster or inability to contact the employer, to submit to the employer, on the employer's request, a written verification of participation in an emergency activity that:

(1) is signed by the supervisor, or the designee of the supervisor, of the entity for which the affected volunteer emergency responder provides services or the applicable emergency service organization; and

(2) states that the volunteer emergency responder responded to an emergency and provides information regarding the declared disaster.

Sec. 24.004. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME. (a) Authorizes an employer to reduce the wages otherwise owed to the employee for any pay period because the employee took time off during that pay period for an absence authorized by this chapter.

(b) Authorizes an employer, in lieu of reducing an employee's wages under Subsection (a), to require an employee who is a volunteer emergency responder to use existing vacation leave time, personal leave time, or compensatory leave time for an absence authorized by this chapter, except as otherwise provided by a collective bargaining agreement.

(c) Provides that this section does not affect an employee's right to wages or leave time under Section 661.905 (Volunteer Firefighters and Emergency Medical Services Volunteers), Government Code.

Sec. 24.005. LIABILITY; REINSTATEMENT. Provides that an employee whose employment is suspended or terminated in violation of this chapter is entitled to:

(1) reinstatement to the employee's former position or a position that is comparable in terms of compensation, benefits, and other conditions of employment;

(2) compensation for wages lost during the period of suspension or termination; and

(3) reinstatement of any fringe benefits and seniority rights lost because of the suspension or termination.

Sec. 24.006. CIVIL ACTION. (a) Authorizes an employee whose employer violates this chapter to bring a civil action against the employer to enforce rights protected by this chapter.

(b) Requires an action under this section to be brought in the county in which the place of employment is located not later than the first anniversary of the date of the violation.

SECTION 2. Makes application of Chapter 24, Labor Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2019.