

House Bill 2348
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 24 to read as follows:

CHAPTER 24. EMPLOYMENT DISCRIMINATION REGARDING VOLUNTEER EMERGENCY RESPONDERS

Sec. 24.001. DEFINITIONS. In this chapter:

(1) "Emergency" means an emergency declared by the president, the governor, a county judge, or a mayor.

(2) "Emergency medical services" has the meaning assigned by Section 773.003, Health and Safety Code.

(3) "Emergency medical services volunteer" has the meaning assigned by Section 773.003, Health and Safety Code.

(4) "Emergency service organization" means any entity established to provide for the public:

(A) fire prevention and suppression;

(B) hazardous materials response operations; or

(C) emergency medical services.

(5) "Employee" means an individual who is employed by an employer for compensation.

(6) "Employer" means a person who employs 20 or more employees. The term includes the state or a political subdivision of the state.

(7) "Political subdivision" means a county, municipality, special district, or authority of this state.

SENATE VERSION (CS)

SECTION 1. Subtitle A, Title 2, Labor Code, is amended by adding Chapter 24 to read as follows:

CHAPTER 24. EMPLOYMENT DISCRIMINATION REGARDING VOLUNTEER EMERGENCY RESPONDERS

Sec. 24.001. DEFINITIONS. In this chapter:

(1) "Declared disaster" means:

(A) a disaster declared by the president of the United States;

(B) a state of disaster declared by the governor under Section 418.014, Government Code; or

(C) a local state of disaster declared by the presiding officer of the governing body of a political subdivision under Section 418.108, Government Code.

(2) "Emergency medical services" has the meaning assigned by Section 773.003, Health and Safety Code.

(3) "Emergency medical services volunteer" has the meaning assigned by Section 773.003, Health and Safety Code.

(4) "Emergency service organization" means any entity established to provide for the public:

(A) fire prevention and suppression;

(B) hazardous materials response operations; or

(C) emergency medical services.

(5) "Employee" means an individual who is employed by an employer for compensation.

(6) "Employer" means a person who employs 20 or more employees. The term includes the state or a political subdivision of the state.

(7) "Political subdivision" means a county, municipality, special district, or authority of this state.

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(8) "Volunteer emergency responder" means an individual who is an active participant in an emergency service organization but who does not receive compensation for the individual's services. The term includes an emergency medical services volunteer and a volunteer firefighter.

(9) "Volunteer fire department" has the meaning assigned by Section 614.101, Government Code.

(10) "Volunteer firefighter" means an individual who is a member of a volunteer fire department.

Sec. 24.002. DISCRIMINATION PROHIBITED; LIMITATION. (a) Except as provided by this chapter, an employer may not terminate or suspend the employment of, or in any other manner discriminate 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 an emergency in the employee's capacity as a volunteer emergency responder.

(b) 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. An employee who is a volunteer emergency responder and who may be absent from or late to employment because the employee is responding to an emergency as a volunteer emergency responder shall make a reasonable effort to notify the employer that the employee may be absent or late. If the employee is unable to provide the notice due to the extreme circumstances of the emergency or inability to contact the employer, the employee shall submit to the employer, on the

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(8) "Volunteer emergency responder" means an individual who is an active participant in an emergency service organization but who does not receive compensation for the individual's services. The term includes an emergency medical services volunteer and a volunteer firefighter.

(9) "Volunteer fire department" has the meaning assigned by Section 614.101, Government Code.

(10) "Volunteer firefighter" means an individual who is a member of a volunteer fire department.

Sec. 24.002. DISCRIMINATION PROHIBITED; LIMITATION. (a) Except as provided by this chapter, an employer may not terminate or suspend the employment of, or in any other manner discriminate 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) 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. An employee who is a volunteer emergency responder and who may be absent from or late to employment because the employee is responding to a declared disaster as a volunteer emergency responder shall make a reasonable effort to notify the employer that the employee may be absent or late. If the employee is unable to provide the notice due to the extreme circumstances of the declared disaster or inability to contact the employer, the employee shall submit to the employer, on

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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 emergency.

Sec. 24.004. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME. (a) An employer may 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) In lieu of reducing an employee's wages under Subsection (a), an employer may 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) This section does not affect an employee's right to wages or leave time under Section 661.905, Government Code.

Sec. 24.005. LIABILITY; REINSTATEMENT. 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.

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the employer's request, a written verification of participation in activities in responding to a declared disaster 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 a declared disaster and provides information regarding the declared disaster.

Sec. 24.004. EFFECT ON EMPLOYEE WAGES; USE OF LEAVE TIME. (a) An employer may 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) In lieu of reducing an employee's wages under Subsection (a), an employer may 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) This section does not affect an employee's right to wages or leave time under Section 661.905, Government Code.

Sec. 24.005. LIABILITY; REINSTATEMENT. 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.

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

(b) An action under this section must 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. Chapter 24, Labor Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2019.

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

(b) An action under this section must 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. Same as House version.

SECTION 3. Same as House version.

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