

BILL ANALYSIS

C.S.H.B. 473
By: Moody
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised that cities and counties have too great an ability to discharge, terminate, or indefinitely suspend injured public safety employees. C.S.H.B. 473 seeks to address these concerns by prohibiting a governmental entity from discharging, indefinitely suspending, or terminating certain peace officers, firefighters, detention officers, or county jailors based on their inability to perform job duties due to work-related injuries before the employees are certified as having reached maximum medical improvement.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 473 amends the Government Code to prohibit a governmental entity that employs or appoints a peace officer, detention officer, county jailer, or firefighter or that the officer, county jailer, or firefighter is elected to serve from discharging, indefinitely suspending, or terminating from employment a peace officer, detention officer, county jailer, or firefighter who sustains a compensable injury under Labor Code provisions relating to workers' compensation based on the person's inability to perform the duties for which the person was elected, appointed, or employed because of the person's injury before the person is certified as having reached maximum medical improvement as defined by the Labor Code unless the report of the doctor designated to conduct an examination to resolve certain questions indicates that the person is unable to return to work.

C.S.H.B. 473 makes such an employer who violates that prohibition liable for reasonable damages incurred by the peace officer, detention officer, county jailer, or firefighter in an amount capped at \$100,000 as a result of the violation and entitles a peace officer, detention officer, county jailer, or firefighter discharged, indefinitely suspended, or terminated from employment in violation of the prohibition to reinstatement in the former position of employment. The bill places the burden of proof in a related proceeding on the peace officer, detention officer, county jailer, or firefighter. The bill waives and abolishes sovereign immunity to suit and from liability to the extent of liability created by the bill's provisions and authorizes a current or former peace officer, detention officer, county jailer, or firefighter to sue an employer for damages and reinstatement.

C.S.H.B. 473 exempts from its provisions an employer that is a municipality that has adopted the firefighters' and police officers' civil service law.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 473 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 614, Government Code, is amended by adding Subchapter L to read as follows:

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SUBCHAPTER L. RESTRICTION ON DISCHARGE AFTER CERTAIN INJURIES

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Sec. 614.201. DEFINITIONS.

Sec. 614.201. Substantially the same as introduced version.

Sec. 614.202. APPLICABILITY.

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Sec. 614.203. RESTRICTION ON DISCHARGE. (a) This section applies to a peace officer, detention officer, county jailer, or firefighter who sustains a compensable injury under Title 5, Labor Code.

Sec. 614.203. RESTRICTION ON DISCHARGE. (a) This section applies to a peace officer, detention officer, county jailer, or firefighter who sustains a compensable injury under Title 5, Labor Code.

(b) An employer may not discharge, indefinitely suspend, or terminate from employment a peace officer, detention officer, county jailer, or firefighter described by Subsection (a) based on the person's inability to perform the duties for which the person was elected, appointed, or employed because of the person's injury before the person is certified as having reached maximum medical improvement.

(b) An employer may not discharge, indefinitely suspend, or terminate from employment a peace officer, detention officer, county jailer, or firefighter described by Subsection (a) based on the person's inability to perform the duties for which the person was elected, appointed, or employed because of the person's injury before the person is certified as having reached maximum medical improvement unless the report of a designated doctor under Section 408.0041, Labor Code, indicates that the person is unable to return to work.

Sec. 614.204. REMEDIES; BURDEN OF PROOF. (a) An employer who violates Section 614.203 is liable for reasonable damages incurred by the peace officer, detention officer, county jailer, or firefighter as a result of the violation.

Sec. 614.204. REMEDIES; BURDEN OF PROOF. (a) An employer who violates Section 614.203 is liable for reasonable damages incurred by the peace officer, detention officer, county jailer, or firefighter as a result of the violation in an amount not to exceed \$100,000.

(b) A peace officer, detention officer, county jailer, or firefighter discharged, indefinitely suspended, or terminated from employment in violation of Section 614.203 is entitled to reinstatement in the former

(b) A peace officer, detention officer, county jailer, or firefighter discharged, indefinitely suspended, or terminated from employment in violation of Section 614.203 is entitled to reinstatement in the former

position of employment.

(c) The burden of proof in a proceeding under this section is on the peace officer, detention officer, county jailer, or firefighter.

(d) Sovereign immunity to suit and from liability is waived and abolished to the extent of liability created by this section, and a current or former peace officer, detention officer, county jailer, or firefighter may sue an employer for:

(1) damages allowed by Subsection (a); and
(2) reinstatement authorized under Subsection (b).

SECTION 2. This Act applies only to a discharge, indefinite suspension, or termination from employment in violation of Section 614.203, Government Code, as added by this Act, that occurs on or after the effective date of this Act. A discharge, indefinite suspension, or termination that occurs before the effective date of this Act is governed by the law in effect on the date the discharge, indefinite suspension, or termination occurred, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

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(c) The burden of proof in a proceeding under this section is on the peace officer, detention officer, county jailer, or firefighter.

(d) Sovereign immunity to suit and from liability is waived and abolished to the extent of liability created by this section, and a current or former peace officer, detention officer, county jailer, or firefighter may sue an employer for:

(1) damages allowed by Subsection (a); and
(2) reinstatement authorized under Subsection (b).

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.