

SUBJECT: Prohibiting employment discrimination against volunteer responders

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — C. Turner, Cain, Crockett, Lambert, Ordaz Perez, Shine

0 nays

3 absent — Hefner, Patterson, S. Thompson

WITNESSES: For — Daniel Owens, Association of Texas EMS Professionals; Rick Browning, Faught Volunteer Fire Department; (*Registered, but did not testify*): Joel Romo, Association Of Texas of EMS Professionals; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; J Pete Laney, State Firefighters' & Fire Marshals' Association; Clayton Stewart, Texas Medical Association; Julie Wheeler, Travis County Commissioners Court)

Against — None

DIGEST: CSHB 318 would amend the Labor Code to prohibit an employer from terminating or suspending the employment of, or in any other manner discriminating against, an employee who was a volunteer emergency responder and who was absent from or late to employment because the person was responding to an emergency in the person's capacity as a volunteer emergency responder.

The bill would define a volunteer emergency responder to mean an individual who was an active participant in an emergency service organization but who did not receive compensation for those services. The term would include an emergency medical services volunteer and a volunteer firefighter.

The bill would not entitle a volunteer emergency responder to be absent from employment for more than 14 days in a calendar year unless the employee's absence was approved by the employer.

Notice to employer. An employee who was a volunteer emergency responder and was absent or late to employment because the person was responding to an emergency in that capacity would be required to make a reasonable effort to notify the employer that they would be absent or late. If the employee was unable to provide notice due to the extreme circumstances of the emergency or inability to contact the employer, the employee would have to submit to the employer, on the employer's request, a written verification of participation in an emergency activity that:

- was signed by the supervisor, or the designee of the supervisor, of the entity for which the affected volunteer emergency responder provided services or the applicable emergency service organization; and
- stated that the volunteer emergency responder responded to an emergency and provided information about the emergency.

Wages and leave time. An employer could 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 bill. In lieu of reducing an employee's wages, an employer could require an employee who was a volunteer emergency responder to use existing vacation leave time, personal leave time, or compensatory leave time for an absence authorized by this bill, except as otherwise provided by a collective bargaining agreement.

The bill would not affect the right of an employee of a state agency or public institution of higher education who was a volunteer firefighter, an emergency medical services volunteer, or a search and rescue volunteer, to wages or leave time.

An employee who was suspended or terminated in violation of the bill's provisions would be entitled to:

- reinstatement to their former position or a position that was

comparable in terms of compensation, benefits, and other 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.

Civil action. The bill would authorize an employee whose employer violated the bill's provisions to bring a civil action against the employer to enforce their protected rights. An action would have to be brought in the county in which the place of employment was located not later than the first anniversary of the date of the violation.

The bill would take effect September 1, 2021, and would apply only to a cause of action that accrued on or after the effective date.