

BILL ANALYSIS

Senate Research Center
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H.B. 2806
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 143, Local Government Code, establishes a municipal service system for police officers and firefighters. Section 143.072, Local Government Code, addresses the leave of absence a police officer or firefighter is granted in order to enter the U.S. military. When a police officer or firefighter takes such a leave of absence, the Firefighters' and Police Officers' Civil Service Commission promotes another person to fill the vacancy. Once the person on military leave returns to the department from the military and is deemed to be physically and mentally capable of discharging the duties of the position, that person is entitled to reinstatement of the former rank if the person reapplies for reinvestment after 90 days of the honorable discharge from the military. However, upon this person's return, there is a surplus in that rank and someone must be demoted. Under current practice, the person promoted in the absence of the individual on military leave is demoted or laid off, even if he or she has more seniority than other individuals who joined that rank after him or her.

This bill amends the reinstatement policy. Upon the return from a military leave of absence, the person who filled the vacancy keeps the rank if that person has more seniority than the other at that rank and the individual at that rank with the least seniority is demoted. This demotion occurs only if there was a surplus in the rank at which the returning individual is reinstated, and the demoted individual is placed on a position reinstatement list in order of seniority. Therefore, those placed on the list are given priority for any future promotions based on seniority.

H.B. 2806 amends current law relating to the reinstatement of a firefighter or police officer to a previously held position based on seniority on the return of another firefighter or police officer from a military leave of absence.

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 Sections 143.072(c) and (f), Local Government Code, as follows:

(c) Deletes existing text providing that the fire fighter or police officer who fills the position is subject to replacement by the person who received the military leave at the time the person returns to active duty in the department.

(f) Requires the fire fighter or police officer who has the least seniority in the position, if the reinstatement of a fire fighter or police officer who received a military leave of absence causes a surplus in the rank to which the fire fighter or police officer was reinstated, to be returned to the position immediately below the position to which the returning fire fighter or police officer was reinstated. Requires a fire fighter or police officer, if the fire fighter or police officer is returned to a lower position in grade or compensation under this subsection without charges being filed against the person for violation of civil service rules, to be placed on a position reinstatement list in order of seniority. Requires that appointments from the reinstatement list be made in order of seniority. Prohibits a person who is not on the reinstatement list from being appointed to a position to which the list applies until the list is exhausted. Deletes existing text providing that if the reinstatement of a fire fighter or police officer who received a

military leave of absence causes that person's replacement to be returned to a lower position in grade or compensation, the replaced person has a preferential right to a subsequent appointment or promotion to the same or similar position from which the person was demoted; and providing that this preferential right has priority over an eligibility list and is subject to the replaced person remaining physically and mentally fit to discharge the duties of that position.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.