
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-4484.2/02 2nd draft

ATTY/TYPIST: KB:rmh

BRIEF DESCRIPTION:

2 **HB 2642** - S AMD
3 By Senator Prentice

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5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 49.12.460 and 2001 c 173 s 1 are each amended to read
8 as follows:

9 (1) The legislature finds that seventy-five percent of fire
10 fighters in the state are volunteers and that many communities would be
11 without fire fighting services if it were not for volunteer fire
12 fighters. Volunteer fire fighters risk their lives to protect others,
13 providing an important public service that should be recognized and
14 supported. Volunteer fire fighters should not have to risk their
15 livelihoods in serving others. It is the intent of the legislature to
16 protect volunteer fire fighters from adverse employment actions
17 stemming from their volunteer service.

18 (2) The definitions in this subsection apply throughout this
19 section unless the context clearly requires otherwise.

20 (a) "Alarm of fire or emergency call" means responding to, working
21 at, or returning from a fire alarm or an emergency call, but not
22 participating in training or other nonemergency activities.

23 (b) "Notice" means any written or verbal notification of an
24 obligation or intent to perform service as a volunteer fire fighter
25 provided to an employer by the employee who will perform the service or
26 by the fire department in which the service is to be performed.

27 (c) "Reinstatement" means reinstatement with back pay, without loss
28 of seniority or benefits, and with removal of any related adverse
29 material from the employee's personnel file, if the file is maintained
30 by the employer.

31 (d) "Volunteer fire fighter" means any person who: (i) Performs
32 assigned or authorized duties for any fire department by his or her own
33 free choice; (ii) serves in a position that is not basically clerical
34 or secretarial in nature; and (iii) receives no monetary remuneration
35 other than maintenance and reimbursement for actual expenses
36 necessarily incurred in performing assigned duties.

1 (e) "Withdrawal of disciplinary action" means withdrawal of
2 disciplinary action with back pay, without loss of seniority or
3 benefits, and with removal of any related adverse material from the
4 employee's personnel file, if the file is maintained by the employer.

5 (3) A person must notify his or her employer as to his or her
6 volunteer service within a reasonable time of accepting employment or
7 becoming a volunteer fire fighter. An employer may not discharge from
8 employment or discipline a volunteer fire fighter because of notice
9 given as to the volunteer service or leave taken related to an alarm of
10 fire or an emergency call. If a volunteer fire fighter fails to give
11 notice as provided in this subsection, the volunteer fighter does not
12 automatically forfeit his or her rights conferred by this section, but
13 is subject to the conduct rules, established policy, and general
14 practices of the employer pertaining to explanations and discipline
15 with respect to absence from scheduled work.

16 ~~((+2))~~ (4)(a) A volunteer fire fighter who believes he or she was
17 discharged or disciplined in violation of this section may file a
18 complaint alleging the violation with the director. The volunteer fire
19 fighter may allege a violation only by filing such a complaint within
20 ninety days of the alleged violation.

21 (b) Upon receipt of the complaint, the director must cause an
22 investigation to be made as the director deems appropriate and must
23 determine whether this section has been violated. Notice of the
24 director's determination must be sent to the complainant and the
25 employer within ninety days of receipt of the complaint.

26 (c) If the director determines that this section was violated and
27 the employer fails to reinstate the employee or withdraw the
28 disciplinary action taken against the employee, whichever is
29 applicable, within thirty days of receipt of notice of the director's
30 determination, the volunteer fire fighter may bring an action against
31 the employer alleging a violation of this section and seeking
32 reinstatement or withdrawal of the disciplinary action.

33 (d) In any action brought under this section, the superior court
34 shall have jurisdiction~~((7))~~ for cause shown, to restrain violations
35 under this section, and to order reinstatement of the employee or
36 withdrawal of the disciplinary action.

37 ~~((3) For the purposes of this section:~~

1 ~~(a) "Alarm of fire or emergency call" means responding to, working~~
2 ~~at, or returning from a fire alarm or an emergency call, but not~~
3 ~~participating in training or other nonemergency activities.~~

4 ~~(b) "Employer" means any person who had twenty or more full-time~~
5 ~~equivalent employees in the previous year.~~

6 ~~(c) "Reinstatement" means reinstatement with back pay, without loss~~
7 ~~of seniority or benefits, and with removal of any related adverse~~
8 ~~material from the employee's personnel file, if a file is maintained by~~
9 ~~the employer.~~

10 ~~(d) "Withdrawal of disciplinary action" means withdrawal of~~
11 ~~disciplinary action with back pay, without loss of seniority or~~
12 ~~benefits, and with removal of any related adverse material from the~~
13 ~~employee's personnel file, if a file is maintained by the employer.~~

14 ~~(e) "Volunteer fire fighter" means a fire fighter who:~~

15 ~~(i) Is not paid;~~

16 ~~(ii) Is not already at his or her place of employment when called~~
17 ~~to serve as a volunteer, unless the employer agrees to provide such an~~
18 ~~accommodation; and~~

19 ~~(iii) Has been ordered to remain at his or her position by the~~
20 ~~commanding authority at the scene of the fire.~~

21 ~~(4) The legislature declares that the public policies articulated~~
22 ~~in this section depend on the procedures established in this section~~
23 ~~and no civil or criminal action may be maintained relying on the public~~
24 ~~policies articulated in this section without complying with the~~
25 ~~procedures set forth in this section, and to that end all civil actions~~
26 ~~and civil causes of action for such injuries and all jurisdiction of~~
27 ~~the courts of this state over such causes are hereby abolished, except~~
28 ~~as provided in this section.))"~~

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32 On page 1, line 2 of the title, after "service;" strike the
33 remainder of the title and insert "and amending RCW 49.12.460."

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