

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 131

By: Pemberton of the Senate

4 and

5 Frix of the House

6
7
8 AS INTRODUCED

9 An Act relating to volunteer emergency responders;
10 creating the Volunteer Emergency Responders Job
11 Protection Act; providing short title; defining
12 terms; requiring leave of absence for certain
13 employee during certain conditions; providing all
14 benefits be retained during certain leave; setting
15 time to return to employment; requiring certain
16 notices and proofs; providing for use of accrued
17 leave; setting maximum leave; allowing additional
18 leave; allowing leave with or without pay; allowing
19 subtraction of earned wages for certain absence;
20 prohibiting termination or disciplinary actions for
21 certain employees; providing for undue hardship;
22 stating conditions for denial of leave; directing
23 certain statement within certain time upon employer
24 request; requiring notification of change of status;
providing for employer violations; setting
administrative fine amount; authorizing enforcement
in district court; providing for job reinstatement,
lost wages and attorney fees; setting time for
commencement of law suit; providing for codification,
and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 190.1 of Title 40, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Volunteer
5 Emergency Responders Job Protection Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 190.2 of Title 40, unless there
8 is created a duplication in numbering, reads as follows:

9 For purposes of this act,

10 1. "Employee" means any person who has established his or her
11 employment with the State of Oklahoma, any of its political
12 subdivisions, or with a person or business entity for one (1) year
13 or more without interrupted service, and does not include a career
14 firefighter or law enforcement officer who is acting as a volunteer
15 emergency responder;

16 2. "Employer" means the State of Oklahoma, its political
17 subdivisions, and any person or business entity employing ten (10)
18 or more employees;

19 3. "Volunteer emergency responder" means a person who has been
20 approved by a governing body or political subdivision of this state
21 to serve any volunteer fire department or volunteer first-aid,
22 rescue, ambulance or emergency squad or as a reserve deputy for a
23 law enforcement agency for the purpose of fire protection or
24 emergency response services to protect life, health or property.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 190.3 of Title 40, unless there
3 is created a duplication in numbering, reads as follows:

4 A. On and after the effective date of this act, any employer
5 operating in this state is hereby required to grant a leave of
6 absence to an employee who serves in the capacity as a volunteer
7 emergency responder, as such terms are defined herein, during a
8 declared state of emergency issued by the Governor of the State of
9 Oklahoma. During such leave of absence the employee shall retain
10 and accumulate seniority, and at the termination of such volunteer
11 service shall be reinstated with full seniority, and without an
12 interrupted service record, or without any rights or privileges
13 denied such employee. Provided, however, that at the end of the
14 period of such leave of absence granted hereunder, the employee
15 shall report for duty to his or her employer at the employee's next
16 scheduled work period to preserve the protections under this act.

17 B. An employee acting as a volunteer emergency responder shall
18 make a reasonable effort to notify his or her employer of the state
19 of emergency, and whenever possible shall give a written notice to
20 his or her employer within the twenty-four-hour-period before
21 expecting to be granted a leave of absence from employment for the
22 declared state of emergency. Prior to seeking protections under
23 this act and in addition to the notice requesting a leave of absence
24 during a declared state of emergency, the employee who is acting as

1 a volunteer emergency responder, as defined herein, shall provide
2 his or her employer written documentation and proof of his or her
3 status as a volunteer emergency responder within thirty (30) days of
4 the effective date of this act or at the time of initial employment
5 or immediately upon approval as a volunteer emergency responder for
6 a governing body in this state, whichever is most applicable, in
7 order to be eligible for the protections and leave of absence
8 authorized by this section. The notice proving the employee is
9 acting as a trained approved volunteer emergency responder shall be
10 a written statement prepared and signed by the individual in charge
11 of the volunteer fire department or another individual authorized to
12 act for such person.

13 C. The employer may require the employee who requests a leave
14 of absence for a declared state of emergency to use any accrued
15 leave during such leave of absence, except as provided in the
16 Oklahoma Volunteer Firefighters Act. The maximum leave of absence
17 authorized by this section shall be fourteen (14) consecutive
18 calendar days per annum; provided, however, the maximum number of
19 days set by this section shall not be construed to limit the amount
20 of leave an employer may grant to the employee, if the employer so
21 desires to grant additional leave days or the Governor has called
22 all volunteer emergency responders into deployment. All leave
23 granted by an employer may be provided with or without pay as
24 determined by the employer or the leave policy of the employer,

1 except as may be required by the Oklahoma Volunteer Firefighters
2 Act. An employer may subtract from the employee's earned wages any
3 time such employee, acting as a volunteer emergency responder, is
4 away from his or her place of employment because of such employee's
5 response to an emergency, unless prohibited by the Oklahoma
6 Volunteer Firefighters Act.

7 D. No employer shall terminate or take any disciplinary action
8 against an employee for acting as a volunteer emergency responder
9 during a declared state of emergency if such employee has made a
10 reasonable effort to comply with the requirements of this act.

11 E. No employer shall be required to grant leave under this
12 section if it presents a demonstrated undue hardship on the
13 employer. The employer may only deny leave or limit the number of
14 days for one or more of the following conditions:

15 1. The employee holds a unique position within the business and
16 no other employee, person, service or temporary hire can perform the
17 job during the leave of absence without significant impairment to
18 the financial or daily operations of the business, its clients and
19 customers;

20 2. The employee has been employed for less than one (1) year
21 prior to requesting the leave of absence authorized by this section;

22 3. The employee failed to notify the employer or provide the
23 written proof that he or she is a volunteer emergency responder with
24 a governing body in this state as required in this act;

1 4. The employee has provided false or insufficient proof of his
2 or her status as a volunteer emergency responder or is no longer
3 active as a volunteer emergency responder;

4 5. The employer will have less than ten employees operating the
5 business if leave is granted to the volunteer emergency responder
6 and the business structure will not accommodate the leave of absence
7 without significant difficulty and adverse financial impact to the
8 business, its clients and customers; or

9 6. The declared state of emergency is not a statewide or
10 countrywide state of emergency and the area declared to be in a
11 state of emergency is not reasonably near the employer's business
12 location and the Governor has not called all volunteer emergency
13 responders into deployment.

14 F. At an employer's request, an employee acting as a volunteer
15 emergency responder, who is absent or reports late to his or her
16 place of employment or who has been granted a leave of absence for a
17 declared state of emergency, shall provide the employer, within
18 seven (7) days of such request, a written statement signed by the
19 individual in charge of the volunteer department or another
20 individual authorized to act for such individual that includes the
21 following:

22 a. the fact that such employee responded to the
23 emergency,

24 b. the date and time of the emergency, and

1 c. the date and time such employee completed his or her
2 volunteer emergency activities.

3 G. An employee who is or who has served as a volunteer
4 emergency responder shall notify his or her employer when such
5 employee's status as a volunteer emergency responder changes,
6 including termination of such status.

7 H. Any employer failing to carry out and adhere to the
8 provisions of this section shall be deemed to have violated the
9 labor laws of this state. Upon a finding that a violation has
10 occurred, the Department of Labor may assess an administrative fine
11 against the employer in an amount not more than Five Hundred Dollars
12 (\$500.00).

13 I. An employee who is terminated or against whom any
14 disciplinary action is taken in violation of this act shall be
15 immediately reinstated to his or her former position, without
16 reduction of wages, seniority or other benefits and shall receive
17 any lost wages or other benefits, if applicable, during any period
18 for which such termination or other disciplinary action was in
19 effect. An action to enforce reinstatement may be brought by the
20 employee to recover any lost wages or other benefits, including
21 court costs and reasonable attorney's fees. An action to enforce
22 reinstatement shall be commenced within one (1) year after the date
23 of termination and shall be brought in the district court of the
24 county in which the place of employment is located.

1 SECTION 4. This act shall become effective November 1, 2017.

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