

Noteworthy Legislative News for Newbies

Rachel Raggio

Associate Attorney, TOASE



TAYLOR·OLSON·ADKINS·SRALLA·ELAM

LLP
ATTORNEYS & COUNSELORS

6000 Western Place, Suite 200

Fort Worth, Texas 76107

(817) 332-2580

www.toase.com

First: A Reminder!

- Federal law controls over state law
- Examples
 - Fair Labor Standards Act
 - Title VII of the Civil Rights Act of 1964
 - Family and Medical Leave Act

Notable Recent/Pending Federal Legislation

- The PUMP Act
- Thirty-Two Hour Workweek Act
- Restoring Overtime Pay Act
- Paycheck Fairness Act
- Stop Spying Bosses Act
- Protecting Older Workers Against Discrimination Act

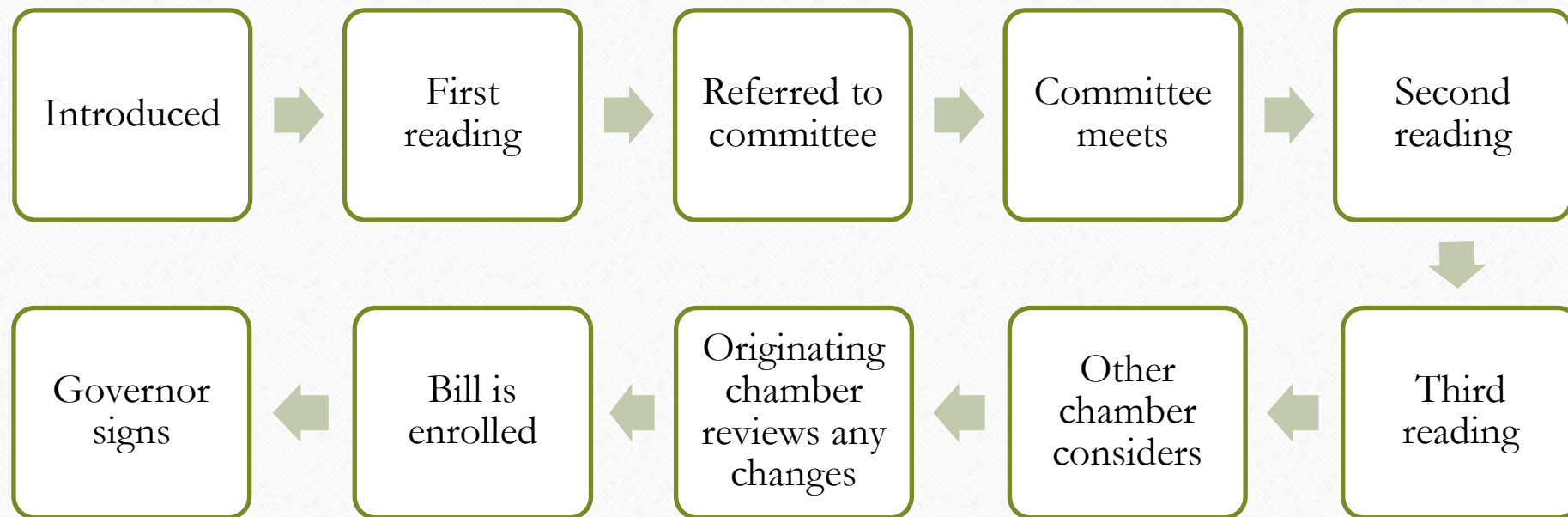


The Texas Legislative Session

- TXLeg meets every other year
- Session lasts 140 days beginning the second Tuesday in January
- This year: January 10 – May 29
- (Yes, it's still going!)

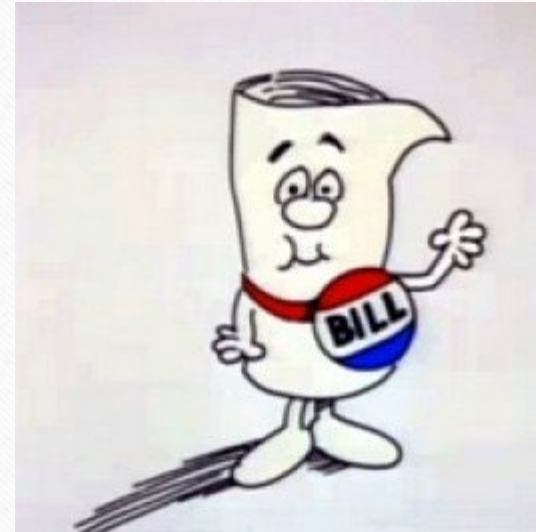


The Legislative Process



So, What's Happening?

- 13 days left in the legislative session
- Bills may have passed one chamber and are being heard by the other
- Many bills still in committee



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Generally Applicable Personnel Bills

Legislation with Broad Implications for HR Departments

Labor Rights & Employee Welfare

HB 4681: Labor Rights

- Relating to the requirement that a public employer give notice to employees of the right to join certain labor organizations.
- Require public employers to give notice of right to join active labor organization

✓ **Still in committee**

SB 2253: Claims for Abusive Workplace Conduct

- Relating to addressing abusive conduct in the workplace; creating a private right of action.
- Prohibits creation of abusive work environment, constructive discharge, or retaliation
- Applies to complainants and employees who assist complainants
- Individual *and* vicarious liability; authorizes extensive damages
- ✓ **Still in committee**

HB 4673: Heat Illness Prevention

- Relating to certain heat safety protections; providing administrative and civil penalties.
 - Creates Heat Illness Prevention Advisory Board – new requirements for employee protections in indoor and outdoor work
 - Administrative penalties for noncompliance
- ✓ **Still in committee**

Employee Benefits

HB 2539: Worker's Comp in the Age of Remote Work

- Relating to the compensability of injuries sustained at a location other than an employer's worksite, including at an employee's home, under the workers' compensation system.
- Exclude injuries sustained while working remotely from worker's compensation
- Applies if location not controlled by employer and employee not required to work from that location
- ✓ **Still in committee**

HB 4268: TWC Wage Claims

- Relating to the period during which an employee may file a claim for unpaid wages with the Texas Workforce Commission.
- Would extend the deadline for an employee to file a claim for unpaid wages from 180 days after the date the wages claimed became due to the first anniversary of that date

✓ **Still in committee**

HB 4395: Employee Education Expenses

- Relating to a restriction on an employee's responsibility for certain training and education expenditures required by an employer
- Places cost burden of required training/education on employer

✓ **Still in committee**

HB 2604/SB 1079: Parental Leave

- Relating to the establishment of a paid parental leave program administered by the Texas Workforce Commission; imposing an employer contribution.
 - State-mandated paid parental leave program: Family Fund Program
 - Likely not much of an effect on municipalities – only requires employers to contribute to fund if employer has no self-funded paid leave
- ✓ **Still in committee (both chambers)**

HB 2298: Parental Leave

- Relating to family and medical leave.
- Essentially a Texas equivalent of FMLA
- Contribution requirements for all employers to a Family and Medical Leave Fund

✓ **Still in committee**

Employment Discrimination

HB 4309: Sexual Harassment & NDAs

- Prohibiting the use of certain provisions in nondisclosure agreements
- Provides protections for employees by prohibiting NDA provisions that:
 - Prevent employee from notifying law enforcement or regulatory agencies
 - Prevent employee from disclosing facts of sexual assault/harassment

✓ **Passed the House; in committee in the Senate**

HB 4840: Settlement of Sexual Assault Claims

- Relating to prohibited provisions in a settlement agreement between a governmental agency and employee regarding a claim or complaint involving sexual assault or certain unlawful conduct based on sex.
 - Prohibit settlement agreements related to sexual harassment or sexual assault claims from including nondisclosure provisions
 - Unclear whether this would apply to municipalities due to definitions used
- ✓ **Still in committee**

SB 1041/ HB 1999: Sexual Harassment Practices

- Relating to unlawful employment practices based on sexual harassment, including complaints and civil actions arising from those practices.
- Whistleblower protections for certain individuals
- Creates cause of action for damages and other relief without a TWC claim or while TWC claim is pending (2 year SOL)

✓ **Still in committee**

HB 79: Protections for Victims

- Relating to employment leave for victims of domestic violence, sexual assault, and stalking.
- Would prohibit any adverse employment actions against employees for reasons including appearance in court and taking time off to recover from mental or physical injuries caused by a crime in which they were the victim
- Would also require employers to provide reasonable accommodations
- ✓ **Still in committee**

HB 1806: Discrimination based on Sexual Orientation and Gender Identity

- Relating to the prohibition of employment discrimination based on sexual orientation or gender identity or expression.
- Would add sexual orientation, gender identity, and gender expression to the list of protected classes in the TCHRA

✓ **Still in committee**

HB 1806: Discrimination based on Reproductive Decisions

- Relating to a prohibition of employment discrimination on the basis of reproductive decisions and certain employment agreements limiting reproductive decisions.
- Protections based on marital status at time of pregnancy, use of assisted reproduction to become pregnant, use of contraception, and use of any other health care drug, device, or service relating to reproductive health

✓ **Still in committee**

Bills Related to Public Safety Personnel

Legislation Affecting Personnel Matters for Police, Fire, and EMTs

Separation and Investigations

HB 4842/SB 2209: No Civilian Oversight

- Relating to municipal civil service for fire fighters and police officers.
 - Would prohibit the use of a “civilian oversight commission” in an investigation of a firefighter or law enforcement officer in a civil service city
 - Preserve confidentiality of materials while investigation pending
- ✓ **Still in committee (both chambers)**

HB 4966: Officer Separation

- Relating to law enforcement agency personnel records and the reporting of separations of license holders to TCOLE.
 - Requires TCOLE to adopt a model policy for personnel files; LEAs then required to adopt substantially similar policy
 - Would replace current designations for officer separation
- ✓ **Passed the House; referred to Senate, in committee**

HB 4875: Peace Officer Drug/Alcohol Testing

- Relating to a law enforcement agency policy regarding drug and alcohol testing of peace officers involved in certain injuries or deaths.
- Requires adoption of written policy requiring peace officer causing an injury/death to submit a test sample within 2 hours of incident
- Evaluate for blood alcohol content and presence of controlled substances

✓ **Still in committee**

Welfare and Qualifications of Public Safety Personnel

HB 2470: Mental Illness

- Relating to prohibited adverse employment action against certain first responders based on mental illness.
- No adverse employment actions permitted if solely due to knowledge/belief of mental illness
- Exception if adverse employment action necessary for public safety
- Waives governmental immunity; authorizes compensatory damages, attorney's fees
- ✓ **Passed the House; referred to Senate, in committee**

HB 2600: Mental Health

- Relating to the employment of peace officers who seek or receive mental health care.
 - Prohibit termination due to officer seeking or receiving mental health care
- ✓ **Passed by the House (unofficial as of this writing); referred to the Senate**

HB 2455/SB 1626: Annual Medical Exam for Firefighters

- Relating to an annual occupational medical examination for fire fighters.
 - Require confidential annual occupational medical evaluation
 - Minimum standards to be established and exams to begin being offered by June 1, 2024
- ✓ **Passed the House; referred to Senate, in committee**

SB 2161: Beginning Age for Police

- Relating to the age limit for a beginning position in a police department under municipal civil service.
- Remove police officers from provisions allowing appointment over maximum age limit, authorizing civil service status/benefits

✓ **Still in committee**

HB 2782: Beginning Age for Fire

- Relating to the age limit for a beginning position in a fire department under municipal civil service.
- Change maximum age for beginning position to 45 instead of 36
- Similar to comparable rules for police

✓ **Still in committee**

Benefits Related to Duty

HB 2316: Injuries in Scope of Duty

- Relating to the employment of certain peace officers, detention officers, county jailers, or firefighters who are injured in the course and scope of duty.
- Prohibit adverse employment action for inability to perform until an employee is certified as reaching maximum medical improvement
- Waives sovereign immunity; liability up to \$100,000; damages or reinstatement available
- ✓ **Passed the House; referred to Senate, in committee**

HB 2315: Illness Presumptions

- Relating to certain presumptions applicable to claims for benefits for certain public safety employees.
- Create additional presumptions against public safety employees' entitlement to benefits for illnesses or diseases presumed to be related to employment
- No favorable presumption involving cancer caused by tobacco if employee/spouse smoked tobacco in preceding 5 years
- ✓ **Still in committee**

HB 2317: Illness Presumptions

- Relating to certain presumptions applicable to claims for benefits or compensation by public safety employees.
 - Similar to the one just discussed, but adds detention officers to covered employees
 - Would further add benefits for stressful or strenuous activities OR exposure to smoke, fumes, or toxic substances causing acute myocardial infarction or stroke within 72 hours of the affected shift
- ✓ **Still in committee**

HB 2468/SB 1033: Lifetime Worker's Comp Benefits

- Relating to the entitlement of an injured employee to lifetime income benefits under the workers' compensation system.
 - Makes certain first responders eligible for lifetime income benefits
 - Change certain eligibility requirements re: brain injuries and burns
- ✓ **Passed the House; referred to Senate, on local/uncontested calendar**

Significant Public Safety Legislation

The “Mandatory Civil Service” Bill

HB 2925: Mandatory Civil Service

- Relating to applicability of the civil service system for municipal firefighters and police officers and sheriff's departments.
- Mandate civil service for any municipality with a population of 10,000 or more that has a paid fire/police department (and for any sheriff's department in a county with population of more than 250,000)
- Removes election provisions; sets implementation timelines
- ✓ **Out of committee with favorable report; awaiting vote by House**

Questions?

Rachel Raggio

rraggio@toase.com

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TAYLOR*OLSON*ADKINS*SRALLA*ELAM
L.L.P.

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