

BILL ANALYSIS

Senate Research Center
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S.B. 2298
By: Watson
Government Organization
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2008, the citizens of Texas were directly affected by several disasters. After each disaster, state employees demonstrated their compassion and willingness to assist fellow Texans by offering to engage in disaster efforts throughout the state. However, most of those employees were not entitled to compensation for that additional work. State employees are also not allowed to receive compensatory time for work performed at their homes, which discourages telecommuting.

Employees subject to the Fair Labor Standards Act (FLSA) may receive monetary compensation for working extra hours in response to disaster situations if an agency authorizes payment of overtime hours worked. FLSA-exempt employees may only receive compensatory time. For teleworkers, the employee's personal residence is designated as the employee's regular place of business as permitted by state law. However, Section 659.018 (Compensatory Time: Place Where Work is Performed), Government Code, prohibits employees from accumulating compensatory time for work performed at their personal residence.

As proposed, S.B. 2298 authorizes an employee to be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government. This bill also authorizes an employee to accumulate compensatory time off for hours worked during any calendar week at the employee's personal residence if the employee obtains the advance approval of the administrative head of the agency for which the employee works or that person's designee.

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 Section 659.016(i), Government Code, to prohibit an employee, except as provided by this subsection, from being paid for any unused compensatory time. Authorizes an employee to be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government.

SECTION 2. Amends Section 659.018, Government Code, as follows:

Sec. 659.018. COMPENSATORY TIME: PLACE WHERE WORK PERFORMED. (a) Creates this subsection from existing text. Creates an exception under Subsection (b).

(b) Authorizes an employee to accumulate compensatory time off for hours worked during any calendar week at the employee's personal residence if the employee obtains the advance approval of the administrative head of the agency for which the employee works or that person's designee. Deletes existing text prohibiting the employee's personal residence from being considered the employee's regular or temporarily assigned place of employment.

SECTION 3. Amends Section 659.255, Government Code, by adding Subsection (g), to provide that the six-month limitations prescribed by Subsections (f)(2) (relating to the effective date of

the payment being six months after the effective date of the employee's last promotion or merit salary increase) and (5) (relating to the effective date of the payment being six months after the effective date of certain agency payments) do not apply if the administrative head of the agency determines in writing that the merit payment is made in relation to the employee's performance during a natural disaster or other extraordinary circumstance.

SECTION 4. Effective date: upon passage or September 1, 2009.