
UNFINISHED BUSINESS

Bill No: SB 206
Author: McGuire (D), et al.
Amended: 9/3/21
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 3/8/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE JUDICIARY COMMITTEE: 11-0, 3/23/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SENATE FLOOR: 39-0, 6/1/21
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 73-0, 9/7/21 - See last page for vote

SUBJECT: Firefighters Procedural Bill of Rights Act

SOURCE: Author

DIGEST: This bill applies the Firefighters Procedural Bill of Rights (FBOR) to seasonal temporary appointment firefighters (STAF), as specified.

Assembly Amendments:

- 1) Create an exception to the requirement that a firefighter must complete a probationary period before FBOR applies to the firefighter. Under the exception, the bill applies FBOR to a STAF who has commenced employment in a second consecutive fire season with the Department of Forestry and Fire Protection (CAL FIRE).
- 2) Toll the one-year period for a STAF by which CAL FIRE must complete an investigation of the employee's alleged misconduct or otherwise refrain from imposing punitive action on or denying promotion to the employee, as specified.
- 3) Prohibit CAL FIRE from terminating a STAF for cause without a right to appeal the termination to SPB.
- 4) Require SPB to hold a formal evidentiary hearing of a STAF following the same procedure as in state civil service proceedings and provide remedies, as specified. The STAF shall have the burden of proof to show that CAL FIRE did not support the termination by a preponderance of the evidence or implemented the termination in bad faith.
- 5) Clarify that this bill does not create a property interest in any temporary appointment to a firefighter position or to a permanent position within the state nor entitle the STAF to back pay, as specified.

ANALYSIS:

Existing law:

- 1) Provides permanent firefighters, pursuant to FBOR, with enhanced procedural rights in relation to political activity, interrogation, punitive action, and administrative appeals. (Gov. Code § 3250 et seq.)
- 2) Defines "firefighter," under FBOR, to mean any firefighter employed by a public agency, including, but not limited to, any firefighter who is a paramedic or emergency medical technician, irrespective of rank. (Gov. Code § 3251(a).)
- 3) Excludes from FBOR's definition of "firefighter" both:
 - a) An inmate of a state or local correctional agency that performs firefighting or related duties; and
 - b) Any person covered by the Public Safety Officers Procedural Bill of Rights Act. (Gov. Code § 3251(a).)

- 4) Excludes from FBOR's protections any employee that has not completed a probationary period established by the employer as a condition of employment. (Gov. Code § 3251(a).)
- 5) Requires a public employer to adhere to specified procedures when interrogating a firefighter that could lead to punitive action. (GC §3253)
- 6) Establishes certain procedural requirements to discharge a firefighter and provides protections for a firefighter under investigation, as specified. Existing law also requires a public employer to complete an investigation of a firefighter's alleged misconduct within one-year or forgo implementing punitive action, as specified. (GC § 3254)

This bill:

- 1) Amends the definition of "firefighter" to include a STAF employed by CAL FIRE.
- 2) Applies FBOR protections to a STAF who has commenced employment in a second consecutive fire season with CAL FIRE, thus creating a limited exception to the requirement that an employee complete a probationary period before FBOR applies.
- 3) Tolls the one-year investigation period if an investigation involves a STAF for any period that the employee is not employed by CAL FIRE until the date the employee is rehired for a subsequent fire season.
- 4) Provides a SPB hearing to a STAF appealing an adverse action, as specified.
- 5) Provides that the employee is not entitled to back pay.
- 6) States that no one shall construe the bill's provisions to create a property interest in any STAF's appointment to a firefighter position or permanent position within the state.
- 7) Makes other conforming and technical changes for these purposes.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee's analysis of this bill prior to recent amendments, this bill would result in one-time General Fund (GF) costs of \$1.1 million and ongoing GF costs of \$1 million to CAL FIRE for additional staff and equipment. One-time costs are slightly higher to purchase equipment such as computers and software for new employees.

SUPPORT: (Verified 9/7/21)

CAL FIRE Local 2881
California Labor Federation
California Professional Firefighters
United Public Employees

OPPOSITION: (Verified 9/7/21)

None received

ARGUMENTS IN SUPPORT: According to the California Professional Firefighters, “[FBOR’s] important and hard-won protections are not available to all firefighters. Temporary or seasonal firefighters employed by the California Department of Forestry and Fire Protection are not currently covered by the existing law. Those dedicated firefighters [...] perform work that is just as important and necessary for the state’s ongoing battle against increasingly dangerous wildfires, and yet are at risk of unfair employment practices with little to no recourse or protection. It is plainly unfair for one group of firefighters to be left without these protections even though they are doing similarly important and dangerous work.”

ASSEMBLY FLOOR: 73-0, 9/7/21

AYES: Aguiar-Curry, Arambula, Bennett, Berman, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood

NO VOTE RECORDED: Bauer-Kahan, Bloom, Gabriel, Lorena Gonzalez, Gray, Levine, Rendon

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
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