

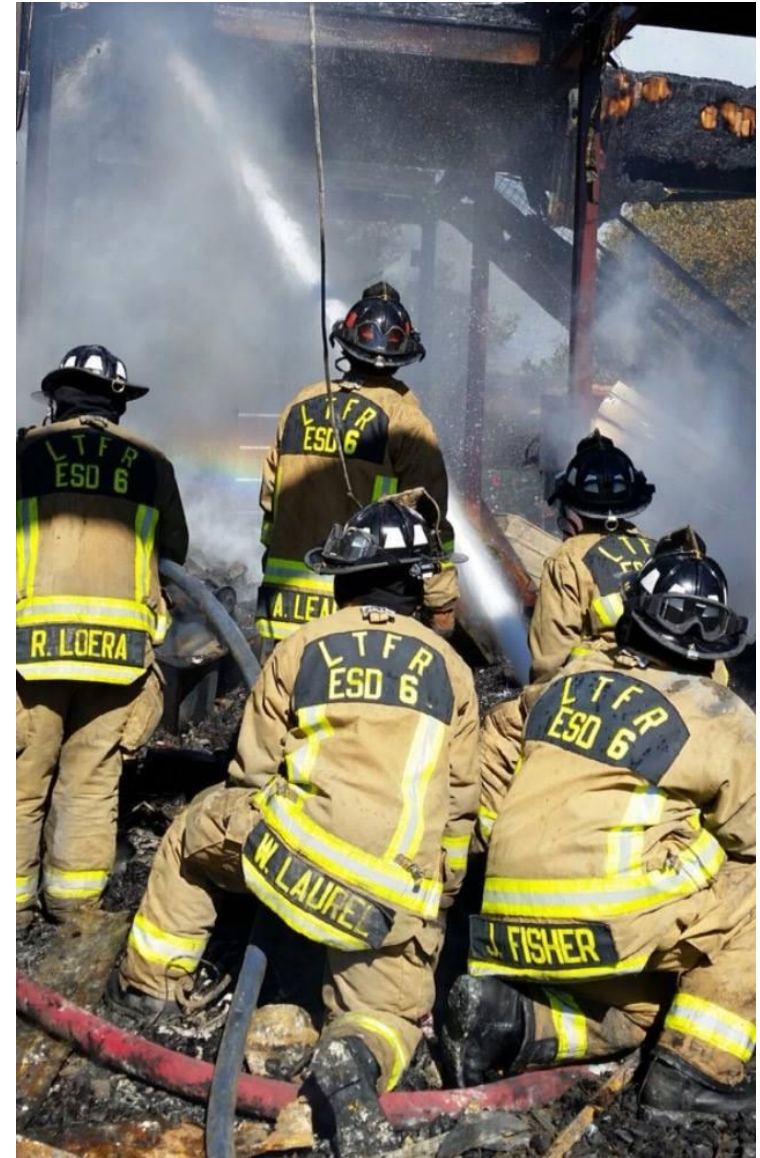


SAFE-D

Texas State Association of Fire and Emergency Districts

A Chief's Perspective: ESD Employment Matters

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Legal Disclaimer

Information regarding ESD labor, labor rights, and laws governing firefighters gained from this session is for informational and educational purposes only.

Discussion topics are designed to provoke thought, reflection, and not serve as legal advice on specific matters or issues.

Any references to specific labor cases reflect information available in the public domain and published for public consumption.

Types of ESD Labor

- Direct employment of career firefighters, paramedics, EMTs, investigators, trainers, safety officers, non-uniformed support services personnel and administrators by the ESD.
- Indirect contract labor via an agreement with another ESD, VFD, City FD/EMS service, or private contractor.
- Joint employment (cost share) between ESD and MUD, PUD, city, or county.
- Unique contracts with federal or tribal agencies that manage labor.

What does Chapter 775 “Say” about ESD labor?

- Permits employment of officers, agents, and employees
- Permits contracts with other agencies or organizations that have labor, officers, agents, or employees.
- It does not provide guidelines for employee management, salaries, benefits, disciplinary action(s), training levels or methods, appeals, application of federal, state, or local laws or regulations regarding employment matters relating to firefighters, paramedics, fire marshals, administrative staff, or volunteers.

Laws & Standards Impacting ESD Labor

- [Department of Labor FLSA, Special 7\(k\), 203\(y\)](#)
- [Texas Comm. Fire Protection](#)
- [Department of State Health Services \(EMS\)](#)
- [Family & Medical Leave Act](#)
- [Uniformed Services Employment & Reemployment Right Act](#)
- [Texas LGC Chapter 614](#)
- [Pregnancy Discrimination Act](#)
- [Texas LGC Chapter 174, CBA](#)
- [Americans with Disability Act](#)
- [OSHA / NIOSH](#)
- [National Fire Protection Agency](#)
- [Equal Employment Opportunity Commission](#)
- [National Labor Relations Board](#)
- [Workers Comp \(w/PTSD Coverage\)](#)
- [Texas LGC Chapter 141,142, and 143](#)

NEW Labor/HR Related Laws in Texas

[HB 471](#) – Relating to the entitlement to and claims for benefits for certain first responders and other employees related to illness and injury.

[SB 1413](#) – Removing vehicles from a roadway

[HB 4073](#) – Renewal of expired Commission on Fire Protection certificates

[HB 624](#) – Emergency medical transport by firefighters in non-transport vehicles

NEW Labor/HR Related Laws in Texas

- [HB2171](#) - Relating to the eligibility of certain retired firefighters and emergency medical services providers to purchase continued health benefits coverage. Law 9/1/21 Effective 1/1/22. ESD in *county* of 150k+ W/P, retirement benefits.
- [HB1069/SB737](#) - Relating to the carrying of a handgun by certain first responders. City <30k, County <250k
- [HB2073](#) - Relating to quarantine leave for fire fighters, peace officers, detention officers, and emergency medical technicians employed by, appointed by, or elected for a political subdivision.

NEW Labor/HR Related Laws in Texas

- SB45 - Relating to the prohibition against sexual harassment in the workplace. Changes: 1 Employee vs. 15, agents/supervisors' responsibility
- SB21 - Relating to the statute of limitations applicable to a sexual harassment complaint filed with the Texas Workforce Commission. More in line with EEOC and statute of limitations of 300 days.



Compassionate Use Program



OVERVIEW

The Texas Compassionate Use Act (Senate Bill 339) was enacted by the Texas Legislature in 2015 (84th Legislative Session). The bill required DPS create a secure registry of physicians who treat epilepsy, Read more...

[OVERVIEW](#)

LAWS AND REGULATIONS



How does an ESD workforce unionize?

Majority of FF group gathers for an election after consulting with the Texas State Association of Firefighters (TSAFF). Vote is conducted and TSAFF contacts the IAFF. IAFF approves the charter and issues the union a “Local Number”.

ESD boards and management cannot interfere with unionization efforts or take action against an individual or group of employees for organizing efforts conducted off-duty or outside of the workplace. (Federal Law)

Possible: Find the “voice of reason” and see if there is something the workforce can workout with the ESD and improve which may reduce or put off unionization efforts. Even this practice, if not handled correctly, has typically only delayed unionization.

How does an ESD labor force gain Collective Bargaining Rights?

If employed directly by an ESD, union/FF group must call and pay for an election. If voters approve the proposition, the ESD will be required to comply with statutory requirements of the law. (TX LGC Chapter 174)

If employed by a private corporation or incorporated VFD the union/FF group can contact the National Labor Relations Board and file the necessary paperwork. (Very easy process)

Legally, ESDs and/or employers are required to negotiate in “good faith”, but not required to establish an agreement or contract.

Top 10 ESD Labor Issues

1. Incorrect application and practice of FLSA Special 7(k) & 203 (y) for firefighters, paramedics/EMTs, and investigators.
2. Incorrect application and practice of FMLA.
3. Workplace harassment of members by members or management.
4. Inconsistent hiring, termination, and promotion processes.
5. Failure to comply with TCFP and DSHS regulations and compliance

Top 10 ESD Labor Issues (Cont)

6. Management's attempts to union bust, deter unionization, or failure to honor agreements.
7. Failure to establish a formal Employee Assistance Program (EAP)
8. Resistance of ESD Board and/or Fire Chief to acknowledge labor force's concerns, demands, or requests for change or improvements.
9. Failure of ESD Board and/or Fire Chief to monitor local, state, and national labor challenges, even if there is not a union in place.
10. Failure of a volunteer program to monitor changes in labor laws that may also apply to volunteer firefighters and EMTs

Helpful Contacts & Training

Robert Abbott, Fire Chief, Travis County ESD 6 – rabbott@ltfr.org

FLSA training focused on firefighter & paramedic work hours and pay rates. For chiefs, HR, administrators and labor leaders. Curt Varone, Retired fire chief and labor attorney for both professional and volunteer firefighters.

www.firelawblog.com/courses/ *

PTSD Programs – Dr. Tania Glenn www.taniaglenn.com

Employee Assistance Program (EAP) Alliance Work Partners - www.awpnow.com *

*Vendor contacts are provided only for reference of vendors used by the presenter.