

By: Patterson, Capriglione, Burrows, Canales,  
Lujan, et al.

H.B. No. 471

Substitute the following for H.B. No. 471:

By: Vasut

C.S.H.B. No. 471

A BILL TO BE ENTITLED

AN ACT

relating to the entitlement to and claims for benefits for certain  
first responders and other employees related to illness and injury.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Local Government Code, is  
amended by adding Chapter 177A to read as follows:

CHAPTER 177A. ILLNESS OR INJURY LEAVE OF ABSENCE FOR COUNTY AND  
MUNICIPAL FIREFIGHTERS, POLICE OFFICERS, AND EMERGENCY MEDICAL  
SERVICES PERSONNEL

Sec. 177A.001. DEFINITIONS. In this chapter:

(1) "Emergency medical services personnel" means a  
person described by Section 773.003, Health and Safety Code, who is  
a paid employee of a county or municipality.

(2) "Firefighter" means a firefighter who is a  
permanent, paid employee of the fire department of a county or  
municipality. The term includes the chief of the department. The  
term does not include a volunteer firefighter.

(3) "Police officer" means a paid employee who is  
full-time, holds an officer license issued under Chapter 1701,  
Occupations Code, and regularly serves in a professional law  
enforcement capacity in the police department of a county or  
municipality. The term includes the chief of the department.

Sec. 177A.002. EFFECT ON LABOR AGREEMENTS. Notwithstanding  
any other law, including Section 142.067, 142.117, 143.207,

1 143.307, 143.361, 147.004, or 174.005, a collective bargaining,  
2 meet and confer, or other similar agreement that provides a benefit  
3 for an ill or injured employee must provide a benefit that, at a  
4 minimum, complies with this chapter.

5 Sec. 177A.003. LINE OF DUTY ILLNESS OR INJURY LEAVE OF  
6 ABSENCE. (a) A county or municipality shall provide to a  
7 firefighter, police officer, or emergency medical services  
8 personnel a leave of absence for an illness or injury related to the  
9 person's line of duty. The leave is with full pay for a period  
10 commensurate with the nature of the line of duty illness or injury.  
11 If necessary, the county or municipality shall continue the leave  
12 for at least one year.

13 (b) At the end of the one-year period, the county's or  
14 municipality's governing body may extend the leave of absence under  
15 Subsection (a) at full or reduced pay. If the firefighter's, police  
16 officer's, or emergency medical services personnel's leave is not  
17 extended or the person's salary is reduced below 60 percent of the  
18 person's regular monthly salary and the person is a member of a  
19 pension fund, the person may retire on pension until able to return  
20 to duty.

21 (c) If the firefighter, police officer, or emergency  
22 medical services personnel is not a member of a retirement system  
23 with disability retirement benefits and is temporarily disabled by  
24 a line of duty injury or illness and if the one-year period and any  
25 extensions granted by the governing body have expired, the person  
26 may use accumulated sick leave, vacation time, and other accrued  
27 benefits before the person is placed on temporary leave.

1        (d) If the one-year period and any extensions granted by the  
2 governing body have expired, the firefighter, police officer, or  
3 emergency medical services personnel is placed on temporary leave.

4        Sec. 177A.004. OTHER ILLNESS OR INJURY LEAVE OF ABSENCE. A  
5 firefighter, police officer, or emergency medical services  
6 personnel who is temporarily disabled by an injury or illness that  
7 is not related to the person's line of duty may:

8            (1) use accumulated sick leave, vacation time, and  
9 other accrued benefits before the person is placed on temporary  
10 leave; or

11           (2) have another firefighter, police officer, or  
12 emergency medical services personnel volunteer do the person's work  
13 while the person is temporarily disabled by the injury or illness.

14        Sec. 177A.005. RETURN TO DUTY. (a) If able, a firefighter,  
15 police officer, or emergency medical services personnel may return  
16 to light duty while recovering from a temporary disability. If  
17 medically necessary, the light duty assignment may continue for at  
18 least one year.

19           (b) After recovery from a temporary disability, a  
20 firefighter, police officer, or emergency medical services  
21 personnel shall be reinstated at the same rank and with the same  
22 seniority the person had before going on temporary leave. Another  
23 firefighter, police officer, or emergency medical services  
24 personnel may voluntarily do the work of an injured firefighter,  
25 police officer, or emergency medical services personnel until the  
26 person returns to duty.

27        SECTION 2. Section [415.021\(c-2\)](#), Labor Code, is amended to

1 read as follows:

2 (c-2) In determining whether to assess an administrative  
3 penalty involving a claim in which the insurance carrier provided  
4 notice under Section 409.021(a-3), the commissioner shall consider  
5 whether:

6 (1) the employee cooperated with the insurance  
7 carrier's investigation of the claim, including whether the  
8 employee promptly and accurately responded to an inquiry by the  
9 insurance carrier regarding the use of cigarettes, e-cigarettes, or  
10 tobacco products by the employee or a person regularly residing  
11 with the employee as described by Section 607.052, Government Code;

12 (1-a) a person who regularly resided with the employee  
13 as described by Section 607.052, Government Code, cooperated with  
14 the insurance carrier's investigation into, and promptly and  
15 accurately responded to an inquiry by the insurance carrier  
16 regarding, the person's use of cigarettes, e-cigarettes, or tobacco  
17 products as described by that section;

18 (2) the employee timely authorized access to the  
19 applicable medical records before the insurance carrier's deadline  
20 to:

21 (A) begin payment of benefits; or

22 (B) notify the division and the employee of the  
23 insurance carrier's refusal to pay benefits; and

24 (3) the insurance carrier conducted an investigation  
25 of the claim, applied the statutory presumptions under Subchapter  
26 B, Chapter 607, Government Code, and expedited medical benefits  
27 under Section 504.055.

1 SECTION 3. Section 607.052, Government Code, is amended by  
2 amending Subsection (b) and adding Subsection (i) to read as  
3 follows:

4 (b) A presumption under this subchapter does not apply:

5 (1) to a determination of a survivor's eligibility for  
6 benefits under Chapter 615;

7 (2) in a cause of action brought in a state or federal  
8 court except for judicial review of a proceeding in which there has  
9 been a grant or denial of employment-related benefits or  
10 compensation;

11 (3) to a determination regarding benefits or  
12 compensation under a life or disability insurance policy purchased  
13 by or on behalf of the detention officer, custodial officer,  
14 firefighter, peace officer, or emergency medical technician that  
15 provides coverage in addition to any benefits or compensation  
16 required by law; or

17 (4) if the disease or illness for which benefits or  
18 compensation is sought is known to be caused by the use of tobacco  
19 and:

20 (A) the firefighter, peace officer, or emergency  
21 medical technician has regularly used cigarettes, e-cigarettes, or  
22 another tobacco product in the seven years preceding the diagnosis  
23 of the disease or illness [~~is or has been a user of tobacco~~]; or

24 (B) a person regularly residing with the  
25 firefighter, peace officer, or emergency medical technician has,  
26 while regularly residing with the firefighter, peace officer, or  
27 emergency medical technician, regularly used cigarettes,

1 e-cigarettes, or another tobacco product during the period  
2 described by Paragraph (A) [~~the firefighter's, peace officer's, or~~  
3 emergency medical technician's spouse has, during the marriage,  
4 been a user of tobacco that is consumed through smoking].

5 (i) In this section, "cigarette," "e-cigarette," and  
6 "tobacco product" have the meanings assigned by Section 161.081,  
7 Health and Safety Code.

8 SECTION 4. Section 607.056, Government Code, is amended to  
9 read as follows:

10 Sec. 607.056. ACUTE MYOCARDIAL INFARCTION OR STROKE. (a) A  
11 firefighter, peace officer, or emergency medical technician who  
12 suffers an acute myocardial infarction or stroke resulting in  
13 disability or death is presumed to have suffered the disability or  
14 death during the course and scope of employment as a firefighter,  
15 peace officer, or emergency medical technician if:

16 (1) while on duty, the firefighter, peace officer, or  
17 emergency medical technician:

18 (A) was engaged in a situation that involved  
19 [~~nonroutine~~] stressful or strenuous physical activity involving  
20 fire suppression, rescue, hazardous material response, emergency  
21 medical services, or other emergency response activity; or

22 (B) participated in a training exercise that  
23 involved [~~nonroutine~~] stressful or strenuous physical activity;  
24 and

25 (2) the acute myocardial infarction or stroke occurred  
26 not later than eight hours after the end of a shift in which [~~while~~]  
27 the firefighter, peace officer, or emergency medical technician was

1 engaging in the activity described under Subdivision (1).

2 (b) For purposes of this section, "~~nonroutine~~ stressful  
3 or strenuous physical activity" does not include clerical,  
4 administrative, or nonmanual activities.

5 SECTION 5. Section 177A.002, Local Government Code, as  
6 added by this Act, applies only to a collective bargaining, meet and  
7 confer, or other similar agreement entered into on or after the  
8 effective date of this Act.

9 SECTION 6. Sections 607.052(b) and 607.056, Government  
10 Code, as amended by this Act, apply only to a claim for benefits or  
11 compensation brought on or after the effective date of this Act. A  
12 claim for benefits or compensation brought before the effective  
13 date of this Act is governed by the law in effect on the date the  
14 claim was made, and the former law is continued in effect for that  
15 purpose.

16 SECTION 7. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2023.