

By: Smithee

H.B. No. 2551

A BILL TO BE ENTITLED

AN ACT

relating to the subrogation interests of certain political subdivisions or carriers providing reinsurance for subdivisions.

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

SECTION 1. Section 172.015, Local Government Code, is amended to read as follows:

Sec. 172.015. SUBROGATION; ADEQUATE RECOVERY. (a) The payor of employee benefits, whether a political subdivision, group of political subdivisions, pool, or carrier providing reinsurance to one of those entities, is ~~[shall be]~~ subrogated to the employees' right of recovery for personal injuries caused by the tortious conduct of a third party.

(b) A payor of employee benefits whose interest is not actively represented by an attorney in a third-party action shall pay a fee to an attorney representing the claimant employee in an amount determined under an agreement entered into between the attorney and the payor of employee benefits. In the absence of an agreement, the court shall award to the attorney, payable out of the recovery of the payor of employee benefits:

(1) a reasonable fee for recovery of the interest of the payor of employee benefits, not to exceed one-third of the payor's recovery; and

(2) a proportionate share of expenses.

(c) If the injured employee is not able to realize a

1 complete and adequate recovery for injuries sustained as a result
2 of the actionable fault of a third party, the payor of employee
3 benefits is entitled to a pro rata recovery consistent with the
4 recovery obtained by the injured employee.

5 SECTION 2. Section 172.015, Local Government Code, as
6 amended by this Act, applies only to a cause of action that accrues
7 on or after the effective date of this Act. An action that accrued
8 before the effective date of this Act is governed by the law
9 applicable to the action immediately before the effective date of
10 this Act, and that law is continued in effect for that purpose.

11 SECTION 3. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2005.