

By: Turner

H.B. No. 1473

A BILL TO BE ENTITLED

AN ACT

relating to the waiver of sovereign immunity of a political subdivision for claims brought by certain employees.

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

SECTION 1. Chapter 180, Local Government Code, is amended by adding Section 180.006 to read as follows:

Sec. 180.006. SOVEREIGN OR GOVERNMENTAL IMMUNITY WAIVED FOR CERTAIN CLAIMS. (a) This section applies only to a firefighter or police officer covered by:

(1) Chapter 141, 142, or 143 or this chapter;

(2) a municipal charter provision conferring civil service benefits of a municipality that has not adopted Chapter 143; or

(3) a municipal ordinance enacted under Chapter 142 or 143.

(b) A firefighter or police officer described by Subsection (a) who alleges the denial of monetary benefits associated with the recovery of back pay authorized under a provision listed in Subsection (a) or monetary damages owed under Section 143.134(h) may sue the employing political subdivision for those monetary benefits or damages.

(c) Sovereign and governmental immunity from suit and liability is waived only to the extent of liability for the monetary benefits or damages described by Subsection (b). This section does

1 not waive sovereign or governmental immunity from suit or liability
2 for any other claim, including a claim involving negligence, an
3 intentional tort, or a contract other than a contract for monetary
4 benefits described by Subsection (b).

5 (d) This section does not:

6 (1) grant immunity from suit to a local governmental
7 entity;

8 (2) waive a defense or a limitation on damages,
9 attorney's fees, or costs available to a party to a suit under this
10 chapter or another statute, including a statute listed in
11 Subsection (a)(1); or

12 (3) modify an agreement under Chapter 142, 143, or
13 174.

14 (e) Before filing suit as provided by Subsection (b), a
15 firefighter or police officer must initiate action under any
16 grievance or appeal procedures created by the provision or
17 agreement under which the monetary benefit is owed and exhaust the
18 grievance or appeal procedures.

19 (f) A party dissatisfied by the final grievance or appeal
20 decision may obtain judicial review of the decision by filing suit
21 in district court within the period allowed by any applicable
22 provision. Judicial review of the grievance or appeal decision is
23 under the substantial evidence rule, unless a different standard of
24 review is provided for the grievance or appeal procedure.

25 (g) This section does not apply to an action asserting a
26 right or claim based wholly or partly, or directly or indirectly, on
27 a referendum election held before January 1, 1980, or an ordinance

1 or resolution implementing the referendum.

2 SECTION 2. Subchapter A, Chapter 174, Local Government
3 Code, is amended by adding Section 174.008 to read as follows:

4 Sec. 174.008. WAIVER OF IMMUNITY. This chapter is binding
5 and enforceable against a public employer, and sovereign or
6 governmental immunity from suit and liability is waived only to the
7 extent necessary to enforce this chapter.

8 SECTION 3. Section 180.006, Local Government Code, as added
9 by this Act, applies only to a claim under Subsection (b) of that
10 section initially asserted on or after the effective date of this
11 Act. A claim initially asserted before the effective date of this
12 Act is governed by the law in effect when the claim was initially
13 asserted, and the former law is continued in effect for that
14 purpose.

15 SECTION 4. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2007.