

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 employing municipality's denial of monetary benefits associated with the recovery of back pay authorized under a provision listed in Subsection (a) or a firefighter described by Subsection (a) who alleges the denial of monetary civil penalties associated with recovery of back pay owed under Section 143.134(h) may seek judicial review of such denial only as provided in Subsections (e) and (f), provided that if there is no applicable grievance, administrative or contractual appeal procedure

1 available under Subsection (e), the firefighter or police officer
2 may file suit against the employing municipality directly in
3 district court under the preponderance of the evidence standard of
4 review.

5 (c) Sovereign and governmental immunity of the employing
6 municipality from suit and liability is waived only to the extent of
7 liability for the monetary benefits or monetary civil penalties
8 described by Subsection (b). This section does not waive sovereign
9 or governmental immunity from suit or liability for any other
10 claim, including a claim involving negligence, an intentional tort,
11 or a contract unless otherwise provided by the statute.

12 (d) This section does not:

13 (1) grant immunity from suit to a local governmental
14 entity;

15 (2) waive a defense or a limitation on damages,
16 attorney's fees, or costs available to a party to a suit under this
17 chapter or another statute, including a statute listed in
18 Subsection (a)(1); or

19 (3) modify an agreement under Chapter 142, 143, or
20 174.

21 (e) Before seeking judicial review as provided by
22 Subsection (b), a firefighter or police officer must initiate
23 action pursuant to any applicable grievance or administrative
24 appeal procedures prescribed by state statute or agreement and must
25 exhaust the grievance or administrative appeal procedure.

26 (f) If judicial review is authorized under statute,
27 judicial review of the grievance or administrative appeal decision

1 is under the substantial evidence rule, unless a different standard
2 of review is provided by the provision establishing the grievance
3 or administrative appeal procedure.

4 (g) This section does not apply to an action asserting a
5 right or claim based wholly or partly, or directly or indirectly, on
6 a referendum election held before January 1, 1980, or an ordinance
7 or resolution implementing the referendum.

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

10 Sec. 174.008. WAIVER OF IMMUNITY. This chapter is binding
11 and enforceable against the employing public employer, and
12 sovereign or governmental immunity from suit and liability is
13 waived only to the extent necessary to enforce this chapter against
14 that employer.

15 SECTION 3. Section 180.006, Local Government Code, as added
16 by this Act, applies only to a claim under Subsection (b) of that
17 section initially asserted on or after the effective date of this
18 Act. A claim initially asserted before the effective date of this
19 Act is governed by the law in effect when the claim was initially
20 asserted, and the former law is continued in effect for that
21 purpose.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 1473 was passed by the House on May 1, 2007, by the following vote: Yeas 143, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1473 on May 25, 2007, by the following vote: Yeas 136, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1473 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor