

By: Turner

H.B. No. 1473

Substitute the following for H.B. No. 1473:

By: Murphy

C.S.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.