

1-1 By: Turner (Senate Sponsor - Whitmire) H.B. No. 1473  
1-2 (In the Senate - Received from the House May 1, 2007;  
1-3 May 2, 2007, read first time and referred to Committee on  
1-4 Jurisprudence; May 18, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;  
1-6 May 18, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1473 By: Hinojosa

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the waiver of sovereign immunity of a political  
1-11 subdivision for claims brought by certain employees.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 180, Local Government Code, is amended  
1-14 by adding Section 180.006 to read as follows:

1-15 Sec. 180.006. SOVEREIGN OR GOVERNMENTAL IMMUNITY WAIVED FOR  
1-16 CERTAIN CLAIMS. (a) This section applies only to a firefighter or  
1-17 police officer covered by:

1-18 (1) Chapter 141, 142, or 143 or this chapter;

1-19 (2) a municipal charter provision conferring civil  
1-20 service benefits of a municipality that has not adopted Chapter  
1-21 143; or

1-22 (3) a municipal ordinance enacted under Chapter 142 or  
1-23 143.

1-24 (b) A firefighter or police officer described by Subsection  
1-25 (a) who alleges the denial of monetary benefits associated with the  
1-26 recovery of back pay authorized under a provision listed in  
1-27 Subsection (a) or a firefighter described by Subsection (a) who  
1-28 alleges the denial of monetary civil penalties associated with  
1-29 recovery of back pay owed under Section 143.134(h) may seek  
1-30 judicial review of such denial only as provided in Subsections (e)  
1-31 and (f), provided that if there is no applicable grievance,  
1-32 administrative or contractual appeal procedure available under  
1-33 Subsection (e), the firefighter or police officer may file suit  
1-34 directly in district court under the preponderance of the evidence  
1-35 standard of review.

1-36 (c) Sovereign and governmental immunity from suit and  
1-37 liability is waived only to the extent of liability for the monetary  
1-38 benefits or monetary civil penalties described by Subsection (b).  
1-39 This section does not waive sovereign or governmental immunity from  
1-40 suit or liability for any other claim, including a claim involving  
1-41 negligence, an intentional tort, or a contract unless otherwise  
1-42 provided by the statute.

1-43 (d) This section does not:

1-44 (1) grant immunity from suit to a local governmental  
1-45 entity;

1-46 (2) waive a defense or a limitation on damages,  
1-47 attorney's fees, or costs available to a party to a suit under this  
1-48 chapter or another statute, including a statute listed in  
1-49 Subsection (a)(1); or

1-50 (3) modify an agreement under Chapter 142, 143, or  
1-51 174.

1-52 (e) Before seeking judicial review as provided by  
1-53 Subsection (b), a firefighter or police officer must initiate  
1-54 action pursuant to any applicable grievance or administrative  
1-55 appeal procedures prescribed by state statute or agreement and must  
1-56 exhaust the grievance or administrative appeal procedure.

1-57 (f) If judicial review is authorized under statute,  
1-58 judicial review of the grievance or administrative appeal decision  
1-59 is under the substantial evidence rule, unless a different standard  
1-60 of review is provided by the provision establishing the grievance  
1-61 or administrative appeal procedure.

1-62 (g) This section does not apply to an action asserting a  
1-63 right or claim based wholly or partly, or directly or indirectly, on

2-1 a referendum election held before January 1, 1980, or an ordinance  
2-2 or resolution implementing the referendum.

2-3 SECTION 2. Subchapter A, Chapter 174, Local Government  
2-4 Code, is amended by adding Section 174.008 to read as follows:

2-5 Sec. 174.008. WAIVER OF IMMUNITY. This chapter is binding  
2-6 and enforceable against the employing public employer, and  
2-7 sovereign or governmental immunity from suit and liability is  
2-8 waived only to the extent necessary to enforce this chapter against  
2-9 that employer.

2-10 SECTION 3. Section 180.006, Local Government Code, as added  
2-11 by this Act, applies only to a claim under Subsection (b) of that  
2-12 section initially asserted on or after the effective date of this  
2-13 Act. A claim initially asserted before the effective date of this  
2-14 Act is governed by the law in effect when the claim was initially  
2-15 asserted, and the former law is continued in effect for that  
2-16 purpose.

2-17 SECTION 4. This Act takes effect immediately if it receives  
2-18 a vote of two-thirds of all the members elected to each house, as  
2-19 provided by Section 39, Article III, Texas Constitution. If this  
2-20 Act does not receive the vote necessary for immediate effect, this  
2-21 Act takes effect September 1, 2007.

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