

By: Turner

H.B. No. 1478

A BILL TO BE ENTITLED

AN ACT

relating to the waiver of immunity from suit of certain local government entities for claims arising under employment law.

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

SECTION 1. The heading to Chapter 271, Local Government Code, is amended to read as follows:

CHAPTER 271. PURCHASING, ~~AND~~ CONTRACTING, AND RELATED AUTHORITY
OF MUNICIPALITIES, COUNTIES, AND CERTAIN
OTHER LOCAL GOVERNMENTS

SECTION 2. The heading to Subchapter I, Chapter 271, Local Government Code, is amended to read as follows:

SUBCHAPTER I. ADJUDICATION OF CONTRACT OR EMPLOYMENT-RELATED
CLAIMS AGAINST ~~[ARISING UNDER WRITTEN CONTRACTS WITH]~~ LOCAL
GOVERNMENTAL ENTITIES

SECTION 3. Section 271.152, Local Government Code, is amended to read as follows:

Sec. 271.152. WAIVER OF IMMUNITY TO SUIT FOR CERTAIN CLAIMS. A local governmental entity that is authorized by statute or the constitution to enter into a contract and ~~that~~ enters into a contract subject to this subchapter, or that is governed by a state statute or local ordinance affecting the employment rights of a local governmental entity's employees, waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of the contract or a violation of statute or ordinance, subject to the

1 terms and conditions of this subchapter.

2 SECTION 4. Section 271.153, Local Government Code, is
3 amended by adding Subsection (c) to read as follows:

4 (c) The total amount of money awarded in an adjudication
5 brought against a local governmental entity for violation of a
6 statute or ordinance affecting the employment rights of a local
7 governmental entity's employees is limited to:

8 (1) the amount necessary to make the affected
9 individual whole for any violation of rights found to have
10 occurred; and

11 (2) interest as allowed by law.

12 SECTION 5. Section 271.155, Local Government Code, is
13 amended to read as follows:

14 Sec. 271.155. NO WAIVER OF OTHER DEFENSES. This subchapter
15 does not waive a defense or a limitation on damages available to a
16 person [~~party to a contract~~], other than a bar against suit based on
17 sovereign immunity.

18 SECTION 6. Section 271.159, Local Government Code, is
19 amended to read as follows:

20 Sec. 271.159. NO RECOVERY OF ATTORNEY'S FEES. (a)
21 Attorney's fees incurred by a local governmental entity or any
22 other party in the adjudication of a claim under a contract subject
23 to this subchapter by or against a local governmental entity shall
24 not be awarded to any party in the adjudication unless the local
25 governmental entity has entered into a written agreement that
26 expressly authorizes the prevailing party in the adjudication to
27 recover its reasonable and necessary attorney's fees by specific

1 reference to this section.

2 (b) Attorney's fees incurred by a local governmental entity
3 or any other party in the adjudication of a claim under a statute or
4 ordinance affecting the employment rights of a local governmental
5 entity's employees shall not be awarded to any party in the
6 adjudication unless authorized by a statute outside this
7 subchapter.

8 SECTION 7. The changes in law made by this Act to Subchapter
9 I, Chapter 271, Local Government Code, apply to any action alleging
10 a violation of Title 5, Local Government Code, or another state
11 statute or a local ordinance affecting employment that has not been
12 finally adjudicated on the effective date of this Act.

13 SECTION 8. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2007.