

By: Whitmire

S.B. No. 1015

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the application of the doctrine of sovereign immunity  
3 in a judicial proceeding to enforce certain employment rights.

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

5 SECTION 1. Chapter 180, Local Government Code, is amended  
6 by adding Section 180.007 to read as follows:

7 Sec. 180.007. SOVEREIGN OR GOVERNMENTAL IMMUNITY WAIVED.

8 (a) A current or former fire fighter or police officer who is or  
9 was employed by a municipality with a population of 1.9 million or  
10 more and who is or was covered by Chapter 141, 142, 143, 175, or this  
11 chapter or a municipal ordinance passed pursuant to a provision  
12 contained in Chapter 142 or 143 and who alleges denial of monetary  
13 benefits associated with the recovery of back pay authorized under  
14 one or more of those provisions, or a monetary civil penalty under  
15 Section 143.134(h), may sue the employing political subdivision for  
16 those monetary benefits.

17 (b) Sovereign and governmental immunity from suit and  
18 liability is waived only to the extent of liability for the monetary  
19 benefits described in Subsection (a) and in no other circumstances,  
20 including, without limitation, claims involving negligence,  
21 intentional tort, or contract, unless otherwise provided for by  
22 statute.

23 (c) Nothing in this section shall constitute a grant of  
24 immunity to suit to a local governmental entity.

1        (d) This section does not waive a defense or a limitation on  
2 damages, attorney's fees, or costs available to either party to a  
3 suit under this chapter or any other chapter set out herein, or  
4 available pursuant to other statute or modify an agreement entered  
5 into pursuant to Chapter 142, 143, or 174.

6        (e)(1) Prior to filing suit, an employee alleging denial of  
7 monetary benefits associated with the recovery of back pay under  
8 one or more of the provisions set out in Subsection (a) or any  
9 applicable agreement must initiate action under any applicable  
10 grievance or appeal procedures created by the provision or any  
11 applicable agreement. Exhaustion of any applicable grievance or  
12 appeal procedures created by the provision or any applicable  
13 agreement is a statutory prerequisite to filing a suit.

14        (2) A party dissatisfied with the final grievance or  
15 appeal decision may obtain judicial review of the decision by  
16 filing suit in district court not later than the time period allowed  
17 by any applicable provision.

18        (3) Judicial review of the grievance or appeal  
19 decision shall be under the substantial evidence rule, unless a  
20 different standard of review is provided in the provision creating  
21 the grievance or appeal provision.

22        SECTION 2. Section 180.007, Local Government Code, as added  
23 by this Act, applies to any action alleging a violation of  
24 Subchapter G, Chapter 143, or Section 142.0017, Local Government  
25 Code, or a municipal ordinance passed pursuant to a provision  
26 contained in Subchapter G, Chapter 143, or Section 142.0017, Local  
27 Government Code, that has not been finally adjudicated on the

1 effective date of this Act.

2           SECTION 3. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2007.