

**House Bill 1473**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

(c) Sovereign and governmental immunity of the employing municipality from suit and liability is waived only to the extent of liability for the monetary benefits or

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(b). This section does not waive sovereign or governmental immunity from suit or liability for any other claim, including a claim involving negligence, an intentional tort, or a contract **other than a contract for monetary benefits described by Subsection (b).**

(d) This section does not:

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

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

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

(e) Before **filing suit** as provided by Subsection (b), a firefighter or police officer must initiate action **under any grievance or appeal procedures created by the provision or agreement under which the monetary benefit is owed and exhaust** the grievance or appeal procedures.

(f) **A party dissatisfied by the final grievance or appeal decision may obtain judicial review of the decision by filing suit in district court within the period allowed by any applicable provision.** Judicial review of the grievance or appeal decision is under the substantial evidence rule, unless a different standard of review is provided **for the grievance or** appeal procedure.

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**monetary civil penalties** described by Subsection (b). This section does not waive sovereign or governmental immunity from suit or liability for any other claim, including a claim involving negligence, an intentional tort, or a contract **unless otherwise provided by the statute.**

(d) This section does not:

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

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

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

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

(f) **If judicial review is authorized under statute,** judicial review of the grievance or **administrative** appeal decision is under the substantial evidence rule, unless a different standard of review is provided **by the provision establishing the grievance or administrative** appeal procedure.

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

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

Sec. 174.008. WAIVER OF IMMUNITY. This chapter is binding and enforceable against a public employer, and sovereign or governmental immunity from suit and liability is waived only to the extent necessary to enforce this chapter.

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

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

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

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

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

Same as House version.

Same as House version.

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September 1, 2007.