

By: Howard, King of Taylor, King of Hemphill,
Naishtat

H.B. No. 581

A BILL TO BE ENTITLED

AN ACT

relating to the waiver of sovereign immunity in certain employment lawsuits by nurses and in certain employment discrimination actions in connection with a workers' compensation claim.

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

SECTION 1. Chapter 451, Labor Code, is amended by adding Section 451.0025 to read as follows:

Sec. 451.0025. WAIVER OF IMMUNITY; PERMISSION FOR FIRST RESPONDER TO SUE. (a) In this section, "first responder" has the meaning assigned by Section 421.095, Government Code.

(b) A first responder who alleges a violation of Section 451.001 by a state or local governmental entity that employs the first responder may sue the governmental entity for the relief provided by this chapter. Sovereign or governmental immunity from suit is waived and abolished to the extent of liability created by this chapter.

(c) To the extent a person has official or individual immunity from a claim for damages, this section does not affect that immunity.

SECTION 2. Section 504.002, Labor Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The following provisions of Subtitles A and B apply to and are included in this chapter except to the extent that they are

1 inconsistent with this chapter:

2 (1) Chapter 401, other than Section 401.011(18)
3 defining "employer" and Section 401.012 defining "employee";

4 (2) Chapter 402;

5 (3) Chapter 403, other than Sections 403.001-403.005;

6 (4) Chapters 404 and 405;

7 (5) Sections 406.006-406.009 and Subchapters B and
8 D-G, Chapter 406, other than Sections 406.033, 406.034, 406.035,
9 406.091, and 406.096;

10 (6) Chapter 408, other than Sections 408.001(b) and
11 (c);

12 (7) Chapters 409-412;

13 (8) Chapter 413, except as provided by Section
14 504.053;

15 (9) Chapters 414-417; and

16 (10) Chapter 451, subject to the limitations of
17 Subsection (a-1).

18 (a-1) The liability of a political subdivision under
19 Chapter 451 is limited to money damages in a maximum amount of
20 \$100,000 for each person aggrieved by a violation of that chapter.

21 SECTION 3. Section 301.413, Occupations Code, is amended by
22 adding Subsections (g), (h), (i), and (j) to read as follows:

23 (g) A nurse employed by a hospital operated by or on behalf
24 of a state or local governmental entity who alleges a violation of
25 Subsection (b) may sue the state or local governmental entity for
26 relief under this section, and the sovereign immunity of the state
27 or local governmental entity from suit and from liability is waived

1 for the limited purpose of allowing the nurse to maintain a lawsuit
2 in state court to obtain that relief. Relief under this section is
3 in addition to any other remedies a nurse may have under state or
4 federal law as a public employee. In this subsection:

5 (1) "Local governmental entity," "public employee,"
6 and "state governmental entity" have the meanings assigned by
7 Section 554.001, Government Code.

8 (2) "Hospital" has the meaning assigned by Section
9 241.003, Health and Safety Code, and includes a mental hospital
10 licensed under Chapter 577, Health and Safety Code.

11 (h) The following provisions of Chapter 554, Government
12 Code, apply to a lawsuit under Subsection (g):

13 (1) the type of relief and the amount of damages
14 available to a public employee under Section 554.003;

15 (2) the time during which a public employee must seek
16 relief under Section 554.005; and

17 (3) the requirement that a public employee use the
18 grievance or appeal procedures of the state or local governmental
19 entity before suing for relief under Section 554.006.

20 (i) A lawsuit under Subsection (g) against a state
21 governmental entity shall be brought in a district court in Travis
22 County or a county in which all or part of the acts or omissions
23 giving rise to the cause of action occurred.

24 (j) A lawsuit under Subsection (g) against a local
25 governmental entity shall be brought in a district court in a county
26 in which all or part of the entity is located.

27 SECTION 4. Section 451.0025, Labor Code, as added by this

1 Act, and Section 504.002, Labor Code, as amended by this Act, apply
2 only to a cause of action that accrues on or after the effective
3 date of this Act. A cause of action that accrues before the
4 effective date of this Act is governed by the law in effect on the
5 date the cause of action accrued, and the former law is continued in
6 effect for that purpose.

7 SECTION 5. The change in law made by this Act to Section
8 301.413, Occupations Code, applies to an action commenced on or
9 after the effective date of this Act. An action commenced before
10 the effective date of this Act is governed by the law as it existed
11 immediately before the effective date of this Act, and that law is
12 continued in effect for that purpose.

13 SECTION 6. This Act takes effect September 1, 2013.