

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 14, 2013

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB581 by Howard (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.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Labor Code, Chapter 451, to permit a first responder employed by a state or local government entity to sue his or her employer based on discrimination relating to a workers' compensation claim filed by the employee. The bill would waive sovereign immunity for the state or local government entity employing a first responder under these circumstances. The bill would limit damages paid by a local government to \$100,000 for an applicable lawsuit.

The bill would amend the Occupations Code, Chapter 301 to waive sovereign immunity in lawsuits where a nurse employed by a state or local government operated hospital alleges unlawful retaliation. The bill would require that a nurse employed by a state agency or local government seek relief within 90 days on an action and use the grievance procedure in place at his or her employer before filing a lawsuit. The bill would require that cases against state agencies be processed in Travis County, and that cases against local government be processed in the county where all or a part of that governmental entity is located.

The change in law made to the Labor Code applies to a cause of action that accrues on or after the effective date of the bill. The change in law made to the Occupations Code applies to an action commenced on or after the effective date of the bill. The bill takes effect September 1, 2013.

Multiple agencies including the State Office of Risk Management, the Department of State Health Services, the Department of Public Safety, the Texas Workforce Commission, the Texas Department of Insurance and the Texas Board of Nursing indicate no fiscal impact. Other agencies including the Texas A&M University System, the University of Texas System, the Office of Court Administration, and the Texas Department of Criminal Justice anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources. The Office of the Attorney General estimates that there would be a cost associated with implementing provisions of the bill. It is anticipated that the costs could be absorbed within current agency resources.

Local Government Impact

The bill would waive sovereign immunity in lawsuits where a nurse employed by a state or local government operated hospital alleges unlawful retaliation. To the extent that local governments owning or operating facilities that employ nurses are sued under the bill, there may be costs that would vary depending on the number of future cases.

The bill would also waive sovereign immunity for local governments in suits involving first responders. The Texas Association of Counties reported that the fiscal impact of this provision could not be estimated. The City of Houston reported that the bill could mean fiscal losses to local governments that would vary depending on the number of future cases and may be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 320 Texas Workforce Commission, 405 Department of Public Safety, 454 Department of Insurance, 479 State Office of Risk Management, 507 Texas Board of Nursing, 537 State Health Services, Department of, 696 Department of Criminal Justice, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

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