

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 2551  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under the Presumptive Act, (Chapter 607, Government Code) a peace officer, fire fighter, or emergency medical responder exposed to a contagious disease is entitled to reimbursement from the employing governmental entity for reasonable medical expenses if the employee can prove that exposure to the disease occurred on the job. Currently, most fire fighters and police officers are covered by risk pools or self-insured cities when it comes to workers' compensation insurance. Workers' compensation providers and first responders must now navigate a far more complex system than decades past.

S.B. 2551 is a collaborative effort between first responders, cities, and risk pools to help reform the current workers compensation system that services fire fighters and police officers.

S.B. 2551 would first clarify the Presumptive Act by identifying specific cancers in statute for which the presumption will apply. The list of twelve cancers reflects what stakeholders believe commonly afflict fire fighters and are most likely due to their occupation. This list will put certainty back into the system and still leaves fire fighters with the ability to show causation for cancers not contained in the list. The list covers non-Hodgkin's lymphoma; multiple myeloma; malignant melanoma; renal cell carcinoma; stomach cancer; colon cancer; cancer of the rectum; skin cancer; prostate cancer; cancer of the testis; and brain cancer. The bill also confirms that political subdivisions that act as workers' compensation providers are regulated as any private provider would be.

S.B. 2551 would allow a first responder to request attorney's fees if they are sued by a city and prevail on a workers compensation claim. S.B. 2551 would also authorize risk pools or political subdivisions the ability to invest certain accounts. S.B. 2551 also tasks the division of workers' compensation with two studies pertaining to the costs that a political subdivision would incur to self-insure or join a risk pool and one that analyzes costs incurred if the presumptive act is extended to police officers. S.B. 2551 only applies to claims and administrative violations occurring on or after the enactment date.

As proposed, S.B. 2551 amends current law relating to the liability of certain political subdivisions for certain workers' compensation claims and actions.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 607.055, Government Code, as follows;

Sec. 607.055. CANCER. (a) Provides that a firefighter or emergency medical technician who suffers from cancer resulting in death or total or partial disability is presumed to have developed the cancer during the course and scope of employment as a firefighter or emergency medical technician if:

(1) makes no changes to this subdivision; and

(2) the carrier is described by Subsection (b), rather than the cancer is known to be associated with fire fighting or exposure to heat, smoke, radiation, or a known or suspected carcinogen, as described by Subsection (b).

(b) Makes a nonsubstantive change. Provides that this section applies only to:

(1) cancer that originates at the stomach, colon, rectum, skin, prostate, testis, or brain;

(2) non-Hodgkin's lymphoma;

(3) multiple myeloma;

(4) malignant melanoma; and

(5) renal cell carcinoma, rather than applies only to a type of cancer that may be caused by exposure to heat, smoke, radiation, or a known or suspected carcinogen as determined by the International Agency for Research on Cancer.

SECTION 2. Amends Section 504.053(e), Labor Code, as follows:

(e) Makes a nonsubstantive change. Provides that nothing in this chapter (Workers' Compensation Insurance Coverage For Employees of Political Subdivisions) waives sovereign immunity or creates a new cause of action, except that a political subdivision that self-insures either individually or collectively is liable for:

(1) sanctions, administrative penalties, and other remedies authorized under Chapter 415 (Administrative Violations);

(2) attorney's fees as provided by Section 408.221(c) (relating to providing that an insurance carrier that seeks judicial review of a certain final decision of the appeals panel is liable for reasonable and necessary attorney's fees incurred by the claimant as a result of the insurance carrier's appeal if the claimant prevails on an issue on which judicial review is sought by the insurance carrier in accordance with the limitation of issues); and

(3) creates this subdivision from existing text and makes no further changes.

SECTION 3. Amends Subchapter D, Chapter 504, Labor Code, by adding Section 504.074, as follows:

Sec. 504.074. SELF-INSURANCE ACCOUNT FOR CERTAIN DEATH BENEFITS.

(a) Authorizes a pool or a political subdivision that self-insures to establish an account for the payment of death benefits for a compensable injury to a firefighter or emergency medical technician described by Section 607.055, Government Code.

(b) Authorizes an account established under this section to accumulate assets in an amount that the pool or political subdivision, in its sole discretion, determines is necessary in order to pay death benefits described by Subsection (a). Provides that the establishment of an account under this section or the amount of assets accumulated in the account does not affect the liability of a pool or political subdivision for the payment of death benefits.

(c) Provides that Chapter 2256 (Public Funds Investment), Government Code, does not apply to the investment of assets in an account established under this section. Requires a pool or political subdivision investing or reinvesting the assets of an account to exercise the judgment and care, under the circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, considering the probable income to be derived and the probable safety of capital. Requires a determination of whether the pool or political subdivision exercised prudence in making an investment decision to be made by considering the investment of all assets of the account rather than by considering the prudence of a single investment.

SECTION 4. (a) Defines "division" as the division of workers' compensation of the Texas Department of Insurance for purposes of this section.

(b) Requires the division to conduct a study on the costs that a political subdivision would incur if:

(1) the political subdivision, for the purpose of paying workers' compensation benefits, becomes a self-insurer or enters into an agreement with another political subdivision to collectively self-insure; and

(2) the legislature amends Chapter 607 (Benefits Relating to Certain Diseases and Illnesses), Government Code, to extend to peace officers the presumptions applicable to firefighters and emergency medical technicians under that chapter.

(c) Requires the division, in conducting the study, to seek information and comments from interested persons who have knowledge about the subjects of the study.

(d) Requires the division, not later than December 15, 2020, to submit a report containing the division's findings and conclusions based on the study conducted under this section to the lieutenant governor, the speaker of the house of representatives, and the standing committees of the senate and the house of representatives with jurisdiction over insurance, local government, or local government finance.

SECTION 5. Makes application of Section 607.055, Government Code, as amended by this Act, prospective.

SECTION 6. (a) Makes application of Section 504.053(e)(1), Labor Code, as added by this Act, prospective.

(b) Makes application of Section 504.053(e)(2), Labor Code, as added by this Act, prospective.

SECTION 7. Effective date: upon passage or September 1, 2019.