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By:  Hinojosa S.B. No. 2551

A BILL TO BE ENTITLED

AN ACT

relating to the liability of certain political subdivisions for certain workers' compensation claims and actions.

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

SECTION 1.  Section 607.055, Government Code, is amended to read as follows:

Sec. 607.055.  CANCER. (a) 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)  the firefighter or emergency medical technician:

(A)  regularly responded on the scene to calls involving fires or fire fighting; or

(B)  regularly responded to an event involving the documented release of radiation or a known or suspected carcinogen while the person was employed as a firefighter or emergency medical technician; and

(2)  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)  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 [~~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.  Section 504.053(e), Labor Code, is amended to read as follows:

(e)  Nothing in this chapter 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;

(2)  attorney's fees as provided by Section 408.221(c); and

(3)  attorney's fees as provided by Section 417.003.

SECTION 3.  Subchapter D, Chapter 504, Labor Code, is amended by adding Section 504.074 to read as follows:

Sec. 504.074.  SELF-INSURANCE ACCOUNT FOR CERTAIN DEATH BENEFITS. (a) A pool or a political subdivision that self-insures may 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)  An account established under this section may 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). 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)  Chapter 2256, Government Code, does not apply to the investment of assets in an account established under this section. A pool or political subdivision investing or reinvesting the assets of an account shall 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. A determination of whether the pool or political subdivision exercised prudence in making an investment decision shall 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) For purposes of this section, "division" means the division of workers' compensation of the Texas Department of Insurance.

(b)  The division shall 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, Government Code, to extend to peace officers the presumptions applicable to firefighters and emergency medical technicians under that chapter.

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

(d)  Not later than December 15, 2020, the division shall 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.  Section 607.055, Government Code, as amended by this Act, applies only to a claim for workers' compensation benefits filed on or after the effective date of this Act. A claim filed before that date is governed by the law as it existed on the date the claim was filed, and the former law is continued in effect for that purpose.

SECTION 6. (a) Section 504.053(e)(1), Labor Code, as added by this Act, applies only to an administrative violation that occurs on or after the effective date of this Act. An administrative violation that occurs before the effective date of this Act is governed by the law applicable to the violation immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b)  Section 504.053(e)(2), Labor Code, as added by this Act, applies only to a claim for workers' compensation benefits filed on or after the effective date of this Act. A claim filed before the effective date of this Act is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose.

SECTION 7.  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 September 1, 2019.