

By: Burrows

H.B. No. 3996

A BILL TO BE ENTITLED

AN ACT

relating to liability of certain political subdivisions in certain workers' compensation actions.

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

SECTION 1. 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 2. Section 415.021, Labor Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to any sanctions, administrative penalty, or other remedy authorized by this subtitle, the commissioner may assess an administrative penalty against a political subdivision that self-insures either individually or collectively that commits an administrative violation in connection with a workers' compensation claim filed by an individual elected, appointed, or employed as a peace officer by the political subdivision under

1 Article 2.12, Code of Criminal Procedure, or other law, or an  
2 individual who is employed by the political subdivision and is  
3 subject to certification by the Texas Commission on Fire  
4 Protection. The amount of the administrative penalty shall not be  
5 less than two times the total amount of medical benefits under  
6 Subchapter B, Chapter 408, Labor Code, and temporary income  
7 benefits under Subchapter F, Chapter 408, Labor Code, payable in  
8 connection with the employee's claim.

9 SECTION 3. Section 607.055, Government Code, is amended to  
10 read as follows:

11 (a) A firefighter or emergency medical technician who  
12 suffers from cancer resulting in death or total or partial  
13 disability is presumed to have developed the cancer during the  
14 course and scope of employment as a firefighter or emergency  
15 medical technician if:

16 (1) the firefighter or emergency medical technician:

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

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

23 (2) the cancer is ~~known to be associated with fire~~  
24 ~~fighting or exposure to heat, smoke, radiation, or a known or~~  
25 ~~suspected carcinogen, as described by Subsection (b)~~ one of the  
26 following:

27 (A) Malignant neoplasms of the lip; tongue;

1 salivary gland; floor of mouth; gum and other mouth; tonsil;  
2 oropharynx; hypopharynx; and other oral cavity and pharynx;

3 (B) Malignant neoplasm of the nasopharynx;

4 (C) Malignant neoplasms of the nose; nasal  
5 cavity; middle ear; and accessory sinuses;

6 (D) Malignant neoplasm of the larynx;

7 (E) Malignant neoplasm of the esophagus;

8 (F) Malignant neoplasm of the stomach;

9 (G) Malignant neoplasms of the colon and rectum;

10 (H) Malignant neoplasms of the liver and  
11 intrahepatic bile duct;

12 (I) Malignant neoplasms of the retroperitoneum  
13 and peritoneum; omentum; and mesentery;

14 (J) Malignant neoplasms of the trachea; bronchus  
15 and lung; heart, mediastinum and pleura; and other ill-defined  
16 sites in the respiratory system and intrathoracic organs;

17 (K) Mesothelioma;

18 (L) Malignant neoplasms of the peripheral nerves  
19 and autonomic nervous system; and other connective and soft tissue;

20 (M) Malignant neoplasms of the skin (melanoma and  
21 non-melanoma), including scrotal cancer;

22 (N) Malignant neoplasm of the female breast;

23 (O) Malignant neoplasm of the ovary;

24 (P) Malignant neoplasm of the prostate;

25 (Q) Malignant neoplasm of the urinary bladder;

26 (R) Malignant neoplasm of the kidney;

27 (S) Malignant neoplasms of the renal pelvis;

ureter; and other urinary organs;

(T) Malignant neoplasms of the eye and orbit;

(U) Malignant neoplasm of the thyroid;

(V) Malignant neoplasms of the blood and lymphoid tissues, including, but not limited to lymphoma, leukemia, and myeloma;

(W) any type of cancer diagnosed in a person less than 20 years of age; and

(X) any type of cancer that occurs in less than 15 cases per 100,000 persons per year in the United States, based on 2005-2009 average annual data age-adjusted to the 2000 U.S. population, as documented in Glenn Copeland, Andrew Lake, Rick Firth, et al. (eds), Cancer in North America: 2005-2009. Volume One: Combined Cancer Incidence for the United States, Canada and North America, Springfield, IL: North American Association of Central Cancer Registries, Inc., June 2012.

~~(b) This section 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 4. Section 415.021, Labor Code, as amended by this Act, applies only to an administrative violation under Chapter 415, Labor Code, 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. Section 504.053, Labor Code,

1 as amended by this Act, and Section 607.055, Government Code, as  
2 amended by this Act, apply only to a claim for workers' compensation  
3 benefits filed on or after the effective date of this Act. Claims  
4 for workers' compensation benefits filed before the effective date  
5 of this Act are governed by the law applicable to the claims  
6 immediately before the effective date of this Act, and that law is  
7 continued in effect for that purpose.

8       SECTION 5. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2019.