

By: Hinojosa, et al.

S.B. No. 2551

A BILL TO BE ENTITLED

AN ACT

relating to liability, payment, and death benefits for certain workers' compensation claims.

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;

1 (2) non-Hodgkin's lymphoma;

2 (3) multiple myeloma;

3 (4) malignant melanoma; and

4 (5) renal cell carcinoma [~~a type of cancer that may be~~
5 ~~caused by exposure to heat, smoke, radiation, or a known or~~
6 ~~suspected carcinogen as determined by the International Agency for~~
7 ~~Research on Cancer~~].

8 SECTION 2. Section 409.021, Labor Code, is amended by
9 adding Subsection (a-3) to read as follows:

10 (a-3) An insurance carrier is not required to comply with
11 Subsection (a) if the claim seeks to recover benefits under
12 Subchapter B, Chapter 607, Government Code, and, not later than the
13 15th day after the date on which the insurance carrier received
14 written notice of the injury, the insurance carrier has provided
15 the employee with a notice that describes the evidence the carrier
16 reasonably believes is necessary to complete its investigation of
17 the compensability of the injury. The commissioner shall adopt
18 rules as necessary to implement this subsection.

19 SECTION 3. Section 409.022, Labor Code, is amended by
20 adding Subsection (d-1) to read as follows:

21 (d-1) An insurance carrier has not committed an
22 administrative violation and has reasonable grounds for a refusal
23 to pay benefits if the carrier has sent notice to the employee as
24 required by Subsection (d) or Section 409.021(a-3).

25 SECTION 4. Section 415.021, Labor Code, is amended by
26 adding Subsection (c-2) to read as follows:

27 (c-2) In determining whether to assess any sanctions, an

1 administrative penalty, or another remedy authorized by this
2 subtitle, the commissioner shall consider whether:

3 (1) the employee has cooperated with the insurance
4 carrier's investigation of the claim; and

5 (2) the employee has timely authorized access to the
6 applicable medical records before the insurance carrier's
7 deadline:

8 (A) to begin payment of benefits; or

9 (B) to notify the division and the employee of
10 its refusal to pay benefits.

11 SECTION 5. Section 504.053(e), Labor Code, is amended to
12 read as follows:

13 (e) Nothing in this chapter waives sovereign immunity or
14 creates a new cause of action, except that a political subdivision
15 that self-insures either individually or collectively is liable
16 for:

17 (1) sanctions, administrative penalties, and other
18 remedies authorized under Chapter 415;

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

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

22 SECTION 6. Subchapter D, Chapter 504, Labor Code, is
23 amended by adding Section 504.074 to read as follows:

24 Sec. 504.074. SELF-INSURANCE ACCOUNT FOR CERTAIN DEATH
25 BENEFITS. (a) A pool or a political subdivision that self-insures
26 may establish an account for the payment of death benefits for a
27 compensable injury to a firefighter or emergency medical technician

1 described by Section 607.055, Government Code.

2 (b) An account established under this section may
3 accumulate assets in an amount that the pool or political
4 subdivision, in its sole discretion, determines is necessary in
5 order to pay death benefits described by Subsection (a). The
6 establishment of an account under this section or the amount of
7 assets accumulated in the account does not affect the liability of a
8 pool or political subdivision for the payment of death benefits.

9 (c) Chapter 2256, Government Code, does not apply to the
10 investment of assets in an account established under this section.
11 A pool or political subdivision investing or reinvesting the assets
12 of an account shall exercise the judgment and care, under the
13 circumstances, that a person of prudence, discretion, and
14 intelligence would exercise in the management of the person's own
15 affairs, considering the probable income to be derived and the
16 probable safety of capital. A determination of whether the pool or
17 political subdivision exercised prudence in making an investment
18 decision shall be made by considering the investment of all assets
19 of the account rather than by considering the prudence of a single
20 investment.

21 SECTION 7. Section 607.055, Government Code, as amended by
22 this Act, applies only to a claim for workers' compensation
23 benefits filed on or after the effective date of this Act. A claim
24 filed before that date is governed by the law as it existed on the
25 date the claim was filed, and the former law is continued in effect
26 for that purpose.

27 SECTION 8. The commissioner of workers' compensation shall

1 adopt the rules required by Section 409.021(a-3), Labor Code, as
2 added by this Act, as soon as practicable after the effective date
3 of this Act.

4 SECTION 9. (a) Section 504.053(e)(1), Labor Code, as added
5 by this Act, applies only to an administrative violation that
6 occurs on or after the effective date of this Act. An
7 administrative violation that occurs before the effective date of
8 this Act is governed by the law applicable to the violation
9 immediately before the effective date of this Act, and that law is
10 continued in effect for that purpose.

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

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