

AN ACT

relating to liability, payment, and 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 607.058, Government Code, is amended to
9 read as follows:

10 Sec. 607.058. PRESUMPTION REBUTTABLE. (a) A presumption
11 under Section 607.053, 607.054, 607.055, or 607.056 may be rebutted
12 through a showing by a preponderance of the evidence that a risk
13 factor, accident, hazard, or other cause not associated with the
14 individual's service as a firefighter or emergency medical
15 technician was a substantial factor in bringing about [~~caused~~] the
16 individual's disease or illness, without which the disease or
17 illness would not have occurred.

18 (b) A rebuttal offered under this section must include a
19 statement by the person offering the rebuttal that describes, in
20 detail, the evidence that the person reviewed before making the
21 determination that a cause not associated with the individual's
22 service as a firefighter or emergency medical technician was a
23 substantial factor in bringing about [~~caused~~] the individual's
24 disease or illness, without which the disease or illness would not
25 have occurred.

26 (c) In addressing an argument based on a rebuttal offered
27 under this section, an administrative law judge shall make findings

1 of fact and conclusions of law that consider whether a qualified
2 expert, relying on evidence-based medicine, stated the opinion
3 that, based on reasonable medical probability, an identified risk
4 factor, accident, hazard, or other cause not associated with the
5 individual's service as a firefighter or emergency medical
6 technician was a substantial factor in bringing about the
7 individual's disease or illness, without which the disease or
8 illness would not have occurred.

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

11 (a-3) An insurance carrier is not required to comply with
12 Subsection (a) if the claim results from an employee's disability
13 or death for which a presumption is claimed to be applicable under
14 Subchapter B, Chapter 607, Government Code, and, not later than the
15 15th day after the date on which the insurance carrier received
16 written notice of the injury, the insurance carrier has provided
17 the employee and the division with a notice that describes all steps
18 taken by the insurance carrier to investigate the injury before the
19 notice was given and the evidence the carrier reasonably believes
20 is necessary to complete its investigation of the compensability of
21 the injury. The commissioner shall adopt rules as necessary to
22 implement this subsection.

23 SECTION 4. Section 409.022, Labor Code, is amended by
24 adding Subsection (d-1) to read as follows:

25 (d-1) An insurance carrier has not committed an
26 administrative violation under Section 409.021 if the carrier has
27 sent notice to the employee as required by Subsection (d) of this

1 section or Section 409.021(a-3).

2 SECTION 5. Section 415.021, Labor Code, is amended by
3 adding Subsection (c-2) to read as follows:

4 (c-2) In determining whether to assess an administrative
5 penalty involving a claim in which the insurance carrier provided
6 notice under Section 409.021(a-3), the commissioner shall consider
7 whether:

8 (1) the employee cooperated with the insurance
9 carrier's investigation of the claim;

10 (2) the employee timely authorized access to the
11 applicable medical records before the insurance carrier's deadline
12 to:

13 (A) begin payment of benefits; or

14 (B) notify the division and the employee of the
15 insurance carrier's refusal to pay benefits; and

16 (3) the insurance carrier conducted an investigation
17 of the claim, applied the statutory presumptions under Subchapter
18 B, Chapter 607, Government Code, and expedited medical benefits
19 under Section 504.055.

20 SECTION 6. Section 504.053(e), Labor Code, is amended to
21 read as follows:

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

26 (1) sanctions, administrative penalties, and other
27 remedies authorized under Chapter 415;

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

2 and

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

4 SECTION 7. Subchapter D, Chapter 504, Labor Code, is
5 amended by adding Section 504.074 to read as follows:

6 Sec. 504.074. SELF-INSURANCE ACCOUNT FOR DEATH BENEFITS AND
7 LIFETIME INCOME BENEFITS. (a) A pool or a political subdivision
8 that self-insures may establish an account for the payment of death
9 benefits and lifetime income benefits under Chapter 408.

10 (b) An account established under this section may
11 accumulate assets in an amount that the pool or political
12 subdivision, in its sole discretion, determines is necessary in
13 order to pay death benefits and lifetime income benefits. The
14 establishment of an account under this section or the amount of
15 assets accumulated in the account does not affect the liability of a
16 pool or political subdivision for the payment of death benefits and
17 lifetime income benefits.

18 (c) Chapter 2256, Government Code, does not apply to the
19 investment of assets in an account established under this section.
20 A pool or political subdivision investing or reinvesting the assets
21 of an account shall discharge its duties solely in the interest of
22 current and future beneficiaries:

23 (1) for the exclusive purposes of:

24 (A) providing death benefits and lifetime income
25 benefits to current and future beneficiaries; and

26 (B) defraying reasonable expenses of
27 administering the account;

1 (2) with the care, skill, prudence, and diligence
2 under the prevailing circumstances that a prudent person acting in
3 a like capacity and familiar with matters of the type would use in
4 the conduct of an enterprise with a like character and like aims;

5 (3) by diversifying the investments of the account to
6 minimize the risk of large losses, unless under the circumstances
7 it is clearly prudent not to do so; and

8 (4) in accordance with the documents and instruments
9 governing the account to the extent that the documents and
10 instruments are consistent with this section.

11 (d) In choosing and contracting for professional investment
12 management services for an account established under this section
13 and in continuing the use of an investment manager, the pool or
14 political subdivision must act prudently and in the interest of the
15 current and future beneficiaries of the account.

16 SECTION 8. Sections [607.055](#) and [607.058](#), Government Code,
17 as amended by this Act, apply only to a claim for workers'
18 compensation benefits filed on or after the effective date of this
19 Act. A claim filed before that date is governed by the law as it
20 existed on the date the claim was filed, and the former law is
21 continued in effect for that purpose.

22 SECTION 9. The commissioner of workers' compensation shall
23 adopt rules as required by or necessary to implement this Act not
24 later than January 1, 2020.

25 SECTION 10. (a) Section [504.053](#)(e)(1), Labor Code, as
26 added by this Act, applies only to an administrative violation that
27 occurs on or after the effective date of this Act. An

1 administrative violation that occurs before the effective date of
2 this Act is governed by the law applicable to the violation
3 immediately before the effective date of this Act, and that law is
4 continued in effect for that purpose.

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2551 passed the Senate on May 7, 2019, by the following vote: Yeas 30, Nays 1; May 23, 2019, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 23, 2019, House granted request of the Senate; May 26, 2019, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 2551 passed the House, with amendments, on May 21, 2019, by the following vote: Yeas 142, Nays 2, three present not voting; May 23, 2019, House granted request of the Senate for appointment of Conference Committee; May 26, 2019, House adopted Conference Committee Report by the following vote: Yeas 140, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor