

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;

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 [504.053](#)(e), Labor Code, is amended to
9 read as follows:

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

14 (1) sanctions, administrative penalties, and other
15 remedies authorized under Chapter [415](#);

16 (2) attorney's fees as provided by Section [408.221](#)(c);
17 and

18 (3) attorney's fees as provided by Section [417.003](#).

19 SECTION 3. Subchapter D, Chapter [504](#), Labor Code, is
20 amended by adding Section 504.074 to read as follows:

21 Sec. 504.074. SELF-INSURANCE ACCOUNT FOR CERTAIN DEATH
22 BENEFITS. (a) A pool or a political subdivision that self-insures
23 may establish an account for the payment of death benefits for a
24 compensable injury to a firefighter or emergency medical technician
25 described by Section [607.055](#), Government Code.

26 (b) An account established under this section may
27 accumulate assets in an amount that the pool or political

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

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

18 SECTION 4. (a) For purposes of this section, "division"
19 means the division of workers' compensation of the Texas Department
20 of Insurance.

21 (b) The division shall conduct a study on the costs that a
22 political subdivision would incur if:

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

27 (2) the legislature amends Chapter 607, Government

1 Code, to extend to peace officers the presumptions applicable to
2 firefighters and emergency medical technicians under that chapter.

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

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

13 SECTION 5. Section 607.055, Government Code, as amended by
14 this Act, applies only to a claim for workers' compensation
15 benefits filed on or after the effective date of this Act. A claim
16 filed before that date is governed by the law as it existed on the
17 date the claim was filed, and the former law is continued in effect
18 for that purpose.

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

26 (b) Section 504.053(e)(2), Labor Code, as added by this Act,
27 applies only to a claim for workers' compensation benefits filed on

1 or after the effective date of this Act. A claim filed before the
2 effective date of this Act is governed by the law in effect on the
3 date the claim was filed, and the former law is continued in effect
4 for that purpose.

5 SECTION 7. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2019.