

1-1 By: Hinojosa S.B. No. 2551
 1-2 (In the Senate - Filed April 22, 2019; April 23, 2019, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 May 2, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 1; May 2, 2019, sent
 1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15		X		
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2551 By: Creighton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to liability, payment, and death benefits for certain
 1-22 workers' compensation claims.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 607.055, Government Code, is amended to
 1-25 read as follows:

1-26 Sec. 607.055. CANCER. (a) A firefighter or emergency
 1-27 medical technician who suffers from cancer resulting in death or
 1-28 total or partial disability is presumed to have developed the
 1-29 cancer during the course and scope of employment as a firefighter or
 1-30 emergency medical technician if:

1-31 (1) the firefighter or emergency medical technician:

1-32 (A) regularly responded on the scene to calls
 1-33 involving fires or fire fighting; or

1-34 (B) regularly responded to an event involving the
 1-35 documented release of radiation or a known or suspected carcinogen
 1-36 while the person was employed as a firefighter or emergency medical
 1-37 technician; and

1-38 (2) the cancer is ~~[known to be associated with fire~~
 1-39 ~~fighting or exposure to heat, smoke, radiation, or a known or~~
 1-40 ~~suspected carcinogen, as]~~ described by Subsection (b).

1-41 (b) This section applies only to:

1-42 (1) cancer that originates at the stomach, colon,
 1-43 rectum, skin, prostate, testis, or brain;

1-44 (2) non-Hodgkin's lymphoma;

1-45 (3) multiple myeloma;

1-46 (4) malignant melanoma; and

1-47 (5) renal cell carcinoma ~~[a type of cancer that may be~~
 1-48 ~~caused by exposure to heat, smoke, radiation, or a known or~~
 1-49 ~~suspected carcinogen as determined by the International Agency for~~
 1-50 ~~Research on Cancer].~~

1-51 SECTION 2. Section 409.021, Labor Code, is amended by
 1-52 adding Subsection (a-3) to read as follows:

1-53 (a-3) An insurance carrier is not required to comply with
 1-54 Subsection (a) if the claim seeks to recover benefits under
 1-55 Subchapter B, Chapter 607, Government Code, and, not later than the
 1-56 15th day after the date on which the insurance carrier received
 1-57 written notice of the injury, the insurance carrier has provided
 1-58 the employee with a notice that describes the evidence the carrier
 1-59 reasonably believes is necessary to complete its investigation of
 1-60 the compensability of the injury. The commissioner shall adopt

2-1 rules as necessary to implement this subsection.

2-2 SECTION 3. Section 409.022, Labor Code, is amended by
2-3 adding Subsection (d-1) to read as follows:

2-4 (d-1) An insurance carrier has not committed an
2-5 administrative violation and has reasonable grounds for a refusal
2-6 to pay benefits if the carrier has sent notice to the employee as
2-7 required by Subsection (d) or Section 409.021(a-3).

2-8 SECTION 4. Section 415.021, Labor Code, is amended by
2-9 adding Subsection (c-2) to read as follows:

2-10 (c-2) In determining whether to assess any sanctions, an
2-11 administrative penalty, or another remedy authorized by this
2-12 subtitle, the commissioner shall consider whether:

2-13 (1) the employee has cooperated with the insurance
2-14 carrier's investigation of the claim; and

2-15 (2) the employee has timely authorized access to the
2-16 applicable medical records before the insurance carrier's
2-17 deadline:

2-18 (A) to begin payment of benefits; or

2-19 (B) to notify the division and the employee of
2-20 its refusal to pay benefits.

2-21 SECTION 5. Section 504.053(e), Labor Code, is amended to
2-22 read as follows:

2-23 (e) Nothing in this chapter waives sovereign immunity or
2-24 creates a new cause of action, except that a political subdivision
2-25 that self-insures either individually or collectively is liable
2-26 for:

2-27 (1) sanctions, administrative penalties, and other
2-28 remedies authorized under Chapter 415;

2-29 (2) attorney's fees as provided by Section 408.221(c);
2-30 and

2-31 (3) attorney's fees as provided by Section 417.003.

2-32 SECTION 6. Subchapter D, Chapter 504, Labor Code, is
2-33 amended by adding Section 504.074 to read as follows:

2-34 Sec. 504.074. SELF-INSURANCE ACCOUNT FOR CERTAIN DEATH
2-35 BENEFITS. (a) A pool or a political subdivision that self-insures
2-36 may establish an account for the payment of death benefits for a
2-37 compensable injury to a firefighter or emergency medical technician
2-38 described by Section 607.055, Government Code.

2-39 (b) An account established under this section may
2-40 accumulate assets in an amount that the pool or political
2-41 subdivision, in its sole discretion, determines is necessary in
2-42 order to pay death benefits described by Subsection (a). The
2-43 establishment of an account under this section or the amount of
2-44 assets accumulated in the account does not affect the liability of a
2-45 pool or political subdivision for the payment of death benefits.

2-46 (c) Chapter 2256, Government Code, does not apply to the
2-47 investment of assets in an account established under this section.
2-48 A pool or political subdivision investing or reinvesting the assets
2-49 of an account shall exercise the judgment and care, under the
2-50 circumstances, that a person of prudence, discretion, and
2-51 intelligence would exercise in the management of the person's own
2-52 affairs, considering the probable income to be derived and the
2-53 probable safety of capital. A determination of whether the pool or
2-54 political subdivision exercised prudence in making an investment
2-55 decision shall be made by considering the investment of all assets
2-56 of the account rather than by considering the prudence of a single
2-57 investment.

2-58 SECTION 7. Section 607.055, Government Code, as amended by
2-59 this Act, applies only to a claim for workers' compensation
2-60 benefits filed on or after the effective date of this Act. A claim
2-61 filed before that date is governed by the law as it existed on the
2-62 date the claim was filed, and the former law is continued in effect
2-63 for that purpose.

2-64 SECTION 8. The commissioner of workers' compensation shall
2-65 adopt the rules required by Section 409.021(a-3), Labor Code, as
2-66 added by this Act, as soon as practicable after the effective date
2-67 of this Act.

2-68 SECTION 9. (a) Section 504.053(e)(1), Labor Code, as added
2-69 by this Act, applies only to an administrative violation that

3-1 occurs on or after the effective date of this Act. An
3-2 administrative violation that occurs before the effective date of
3-3 this Act is governed by the law applicable to the violation
3-4 immediately before the effective date of this Act, and that law is
3-5 continued in effect for that purpose.

3-6 (b) Section 504.053(e)(2), Labor Code, as added by this Act,
3-7 applies only to a claim for workers' compensation benefits filed on
3-8 or after the effective date of this Act. A claim filed before the
3-9 effective date of this Act is governed by the law in effect on the
3-10 date the claim was filed, and the former law is continued in effect
3-11 for that purpose.

3-12 SECTION 10. This Act takes effect immediately if it
3-13 receives a vote of two-thirds of all the members elected to each
3-14 house, as provided by Section 39, Article III, Texas Constitution.
3-15 If this Act does not receive the vote necessary for immediate
3-16 effect, this Act takes effect September 1, 2019.

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