

House Bill 471
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle C, Title 5, Local Government Code, is amended by adding Chapter 177A to read as follows:

CHAPTER 177A. ILLNESS OR INJURY LEAVE OF ABSENCE FOR FIREFIGHTERS, POLICE OFFICERS, AND EMERGENCY MEDICAL SERVICES PERSONNEL OF POLITICAL SUBDIVISION

Sec. 177A.001. DEFINITIONS. In this chapter:

(1) "Emergency medical services personnel" means a person described by Section 773.003, Health and Safety Code, who is a paid employee of a political subdivision.

(2) "Firefighter" means a firefighter who is a permanent, paid employee of the fire department of a political subdivision. The term includes the chief of the department. The term does not include a volunteer firefighter.

(3) "Police officer" means a paid employee who is full-time, holds an officer license issued under Chapter 1701, Occupations Code, and regularly serves in a professional law enforcement capacity in the police department of a political subdivision. The term includes the chief of the department.

Sec. 177A.002. EFFECT ON LABOR AGREEMENTS. Notwithstanding any other law, including Section 142.067, 142.117, 143.207, 143.307, 143.361, 147.004, or 174.005, a collective bargaining, meet and confer, or other similar agreement that provides a benefit for an ill or injured employee must provide a benefit that, at a minimum, complies with this chapter.

Sec. 177A.003. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE. (a) A political subdivision shall provide to a firefighter, police officer, or emergency medical services personnel a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty

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Sec. 177A.003. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE. (a) A political subdivision shall provide to a firefighter, police officer, or emergency medical services personnel a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty

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illness or injury. If necessary, the political subdivision shall continue the leave for at least one year.

(b) At the end of the one-year period, the political subdivision's governing body may extend the leave of absence under Subsection (a) at full or reduced pay. If the firefighter's, police officer's, or emergency medical services personnel's leave is not extended or the person's salary is reduced below 60 percent of the person's regular monthly salary and the person is a member of a pension fund, the person may retire on pension until able to return to duty.

(c) If the firefighter, police officer, or emergency medical services personnel is not a member of a retirement system with disability retirement benefits and is temporarily disabled by a line of duty injury or illness and if the one-year period and any extensions granted by the governing body have expired, the person may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

(d) If the one-year period and any extensions granted by the governing body have expired, the firefighter, police officer, or emergency medical services personnel is placed on temporary leave.

Sec. 177A.004. OTHER ILLNESS OR INJURY LEAVE OF ABSENCE. A firefighter, police officer, or emergency medical services personnel who is temporarily disabled by an injury or illness that is not related to the person's line of duty may:

(1) use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave; or

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illness or injury. If necessary, the political subdivision shall continue the leave for at least one year. [FA1(1)]

(b) At the end of the leave of absence under Subsection (a), the governing body of the political subdivision may extend the leave of absence at full or reduced pay.

(c) If the firefighter, police officer, or emergency medical services personnel is temporarily disabled by a line of duty injury or illness and the leave of absence and any extension granted by the governing body has expired, the person may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

(d) If the leave of absence and any extension granted by the governing body has expired, a firefighter, police officer, or emergency medical services personnel who requires additional leave described by this section shall be placed on temporary leave. [FA1(2)]

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(2) have another firefighter, police officer, or emergency medical services personnel volunteer do the person's work while the person is temporarily disabled by the injury or illness.

Sec. 177A.005. RETURN TO DUTY. (a) If able, a firefighter, police officer, or emergency medical services personnel may return to light duty while recovering from a temporary disability. If medically necessary, the light duty assignment may continue for at least one year.

(b) After recovery from a temporary disability, a firefighter, police officer, or emergency medical services personnel shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another firefighter, police officer, or emergency medical services personnel may voluntarily do the work of an injured firefighter, police officer, or emergency medical services personnel until the person returns to duty.

SECTION 2. Section 415.021(c-2), Labor Code, is amended to read as follows:

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

(1) the employee cooperated with the insurance carrier's investigation of the claim, including whether the employee promptly and accurately responded to an inquiry by the insurance carrier regarding the use of cigarettes, e-cigarettes, or tobacco products by the employee or a person regularly residing with the employee as described by Section 607.052, Government Code;

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Sec. 177A.004. RETURN TO DUTY. (a) If able, a firefighter, police officer, or emergency medical services personnel may return to light duty while recovering from a temporary disability. If medically necessary, the light duty assignment may continue for at least one year.

(b) After recovery from a temporary disability, a firefighter, police officer, or emergency medical services personnel shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another firefighter, police officer, or emergency medical services personnel may voluntarily do the work of the injured firefighter, police officer, or emergency medical services personnel until the person returns to duty. [FA1(3)]

No equivalent provision.

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(1-a) a person who regularly resided with the employee as described by Section 607.052, Government Code, cooperated with the insurance carrier's investigation into, and promptly and accurately responded to an inquiry by the insurance carrier regarding, the person's use of cigarettes, e-cigarettes, or tobacco products as described by that section;
(2) the employee timely authorized access to the applicable medical records before the insurance carrier's deadline to:
(A) begin payment of benefits; or
(B) notify the division and the employee of the insurance carrier's refusal to pay benefits; and
(3) the insurance carrier conducted an investigation of the claim, applied the statutory presumptions under Subchapter B, Chapter 607, Government Code, and expedited medical benefits under Section 504.055.

SECTION 3. Section 504.051(a), Labor Code, is amended to read as follows:
(a) Benefits provided under this chapter shall be offset:
(1) to the extent applicable, by any amount for incapacity received as provided by:
(A) Chapter 143 or 177A, Local Government Code; or
(B) any other statute in effect on June 19, 1975, that provides for the payment for incapacity to work because of injury on the job that is also covered by this chapter; and
(2) by any amount paid under Article III, Section 52e, of the Texas Constitution, as added in 1967.

SECTION 2. Same as House version.

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<p>SECTION 4. Section 607.052, Government Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:</p> <p>(b) A presumption under this subchapter does not apply:</p> <p>(1) to a determination of a survivor's eligibility for benefits under Chapter 615;</p> <p>(2) in a cause of action brought in a state or federal court except for judicial review of a proceeding in which there has been a grant or denial of employment-related benefits or compensation;</p> <p>(3) to a determination regarding benefits or compensation under a life or disability insurance policy purchased by or on behalf of the detention officer, custodial officer, firefighter, peace officer, or emergency medical technician that provides coverage in addition to any benefits or compensation required by law; or</p> <p>(4) if the disease or illness for which benefits or compensation is sought is known to be caused by the use of tobacco and:</p> <p>(A) the firefighter, peace officer, or emergency medical technician <u>has regularly used cigarettes, e-cigarettes, or another tobacco product in the seven years preceding the diagnosis of the disease or illness</u> [is or has been a user of tobacco]; or</p> <p>(B) <u>a person regularly residing with the firefighter, peace officer, or emergency medical technician has, while regularly residing with the firefighter, peace officer, or emergency medical technician, regularly used cigarettes, e-cigarettes, or another tobacco product during the period described by Paragraph (A)</u> [the firefighter's, peace officer's, or emergency medical technician's spouse has, during the</p>	<p>No equivalent provision.</p>	

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marriage, been a user of tobacco that is consumed through smoking].

(i) In this section, "cigarette," "e-cigarette," and "tobacco product" have the meanings assigned by Section 161.081, Health and Safety Code.

SECTION 5. Section 607.056, Government Code, is amended to read as follows:

Sec. 607.056. ACUTE MYOCARDIAL INFARCTION OR STROKE. (a) A firefighter, peace officer, or emergency medical technician who suffers an acute myocardial infarction or stroke resulting in disability or death is presumed to have suffered the disability or death during the course and scope of employment as a firefighter, peace officer, or emergency medical technician if:

(1) while on duty, the firefighter, peace officer, or emergency medical technician:

(A) was engaged in a situation that involved ~~[nonroutine]~~ stressful or strenuous physical activity involving fire suppression, rescue, hazardous material response, emergency medical services, law enforcement, or other emergency response activity; or

(B) participated in a training exercise that involved ~~[nonroutine]~~ stressful or strenuous physical activity; and

(2) the acute myocardial infarction or stroke occurred not later than eight hours after the end of a shift in which ~~[while]~~ the firefighter, peace officer, or emergency medical technician was engaging in the activity described under Subdivision (1).

No equivalent provision.

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(b) For purposes of this section, "[non routine] stressful or strenuous physical activity" does not include clerical, administrative, or nonmanual activities.		
SECTION 6. Section 177A.002, Local Government Code, as added by this Act, applies only to a collective bargaining, meet and confer, or other similar agreement entered into on or after the effective date of this Act.	SECTION 3. Same as House version.	
SECTION 7. Section 504.051(a), Labor Code, as amended by this Act, applies only to a claim for workers' compensation benefits filed on or after the effective date of this Act. A claim filed before that date is governed by the law as it existed on the date the claim was filed, and the former law is continued in effect for that purpose.	SECTION 4. Same as House version.	
SECTION 8. Sections 607.052(b) and 607.056, Government Code, as amended by this Act, apply only to a claim for benefits or compensation brought on or after the effective date of this Act. A claim for benefits or compensation brought before the effective date of this Act is governed by the law in effect on the date the claim was made, and the former law is continued in effect for that purpose.	No equivalent provision.	
SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If	SECTION 5. Same as House version.	

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this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.

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