

BILL ANALYSIS

Senate Research Center
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H.B. 1473
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Jurisprudence
5/9/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many municipalities and other political subdivisions of this state claim sovereign immunity from suit in regards to certain statutory employment claims. Based on recent court decisions, it is unclear whether municipalities can claim immunity from suit. Although this issue has been clarified for other types of contracts, ambiguity still remains around this issue in relation to employment contracts.

H.B. 1473 waives a political subdivision's sovereign immunity for claims arising from an employee alleging violation of a state statute or local ordinance affecting employment rights or benefits.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 180, Local Government Code, by adding Section 180.006, as follows:

Sec. 180.006. SOVEREIGN OR GOVERNMENTAL IMMUNITY WAIVED FOR CERTAIN CLAIMS. (a) Provides that this section applies only to a firefighter or police officer covered by Chapter 141 (Compensation and Expenses of Municipal Officers and Employees), 142 (Assistance, Benefits, and Working Conditions of Municipal Officers and Employees), or 143 (Municipal Civil Service for Firefighters and Police Officers) or this chapter; a municipal charter provision conferring civil service benefits of a municipality that has not adopted Chapter 143; or a municipal ordinance enacted under Chapter 142 or 143.

(b) Authorizes a firefighter or police officer described by Subsection (a) who alleges the denial of monetary benefits associated with the recovery of back pay authorized under a provision listed in Subsection (a) or monetary damages owed under Section 143.134(h) to sue the employing political subdivision for those monetary benefits or damages.

(c) Provides that sovereign and governmental immunity from suit and liability is waived only to the extent of liability for the monetary benefits or damages described by Subsection (b). Provides that this section does not waive sovereign or governmental immunity from suit or liability for any other claim, including a claim involving negligence, an intentional tort, or a contract other than a contract for monetary benefits described by Subsection (b).

(d) Provides that this section does not grant immunity from suit to a local governmental entity, waive a defense or a limitation on damages, attorney's fees, or costs available to a party to a suit under this chapter or another statute, including a statute listed in Subsection (a)(1), or modify an agreement under Chapter 142, 143, or 174 (Fire and Police Employee Relations).

(e) Requires a firefighter or a police officer, before filing suit as provided by Subsection (b), to initiate action under any grievance or appeal procedures created by the provision or agreement under which the monetary benefit is owed and exhaust the grievance or appeal procedures.

(f) Authorizes a party dissatisfied by the final grievance or appeal decision to obtain judicial review of the decision by filing suit in district court within the period allowed by any applicable provision. Provides that judicial review of the grievance or appeal decision is under the substantial evidence rule, unless a different standard of review is provided for the grievance or appeal procedure.

(g) Provides that this section does not apply to an action asserting a right or claim based wholly or partly, or directly or indirectly, on a referendum election held before January 1, 1980, or an ordinance or resolution implementing the referendum.

SECTION 2. Amends Subchapter A, Chapter 174, Local Government Code, by adding Section 174.008, as follows:

Sec. 174.008. WAIVER OF IMMUNITY. Provides that this chapter is binding and enforceable against a public employer, and sovereign or governmental immunity from suit and liability is waived only to the extent necessary to enforce this chapter.

SECTION 3. Makes application of Section 180.006, Local Government Code, as added by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2007.