

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1473
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Jurisprudence
5/17/2007
Committee Report (Substituted)

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.

C.S.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 a firefighter described by Subsection (a) who alleges the denial of monetary civil penalties associated with recovery of back pay owed under Section 143.134(h) to seek judicial review of such denial only as provided in Subsections (e) and (f), provided that if there is no applicable grievance, administrative or contractual appeal procedure available under Subsection (e), the firefighter or police officer is authorized to file suit directly in district court under the preponderance of the evidence standard of review.

(c) Provides that sovereign and governmental immunity from suit and liability is waived only to the extent of liability for the monetary benefits or monetary civil penalties 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 unless otherwise provided by the statute.

(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 police officer, before seeking judicial review as provided by Subsection (b), to initiate action pursuant to any applicable grievance or administrative appeal procedures prescribed by state statute or agreement and to exhaust the grievance or administrative appeal procedure.

(f) Provides that judicial review of the grievance or administrative appeal decision, if judicial review is authorized under statute, is under the substantial evidence rule, unless a different standard of review is provided by the provision establishing the grievance or administrative 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 against that employer.

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.