

## **BILL ANALYSIS**

C.S.H.B. 451  
By: Moody  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that it is too difficult for certain first responders to obtain redress when they are discriminated or retaliated against for pursuing workers' compensation claims. C.S.H.B. 451 seeks to address this issue by waiving immunity in certain employment discrimination actions in connection with a workers' compensation claim.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 451 amends the Labor Code to authorize a first responder who alleges a violation of employment discrimination by a state or local governmental entity that employs the first responder based on the responder's pursuit of a workers' compensation claim to sue the governmental entity for relief. The bill waives and abolishes sovereign or governmental immunity from suit to the extent of liability created by statutory provisions prohibiting such discrimination. The bill establishes that its provisions do not affect the immunity of a person who has official or individual immunity from a claim for damages.

C.S.H.B. 451 limits the liability of a political subdivision under statutory provisions prohibiting employment discrimination based on an employee's pursuit of a workers' compensation claim to money damages capped at \$100,000 for each person aggrieved by a violation of those provisions and at \$300,000 for each single occurrence of such a violation. The bill establishes that a single occurrence is considered to be a single employment policy or employment action that results in discrimination against or discharge of one or more employees concurrently.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 451 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 451, Labor Code, is amended.

SECTION 2. Section 504.002, Labor Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The following provisions of Subtitles A and B apply to and are included in this chapter except to the extent that they are inconsistent with this chapter:

- (1) Chapter 401, other than Section 401.011(18) defining "employer" and Section 401.012 defining "employee";
- (2) Chapter 402;
- (3) Chapter 403, other than Sections 403.001-403.005;
- (4) Chapters 404 and 405;
- (5) Sections 406.006-406.009 and Subchapters B and D-G, Chapter 406, other than Sections 406.033, 406.034, 406.035, 406.091, and 406.096;
- (6) Chapter 408, other than Sections 408.001(b) and (c);
- (7) Chapters 409-412;
- (8) Chapter 413, except as provided by Section 504.053;
- (9) Chapters 414-417; and
- (10) Chapter 451, subject to the limitations of Subsection (a-1).

(a-1) The liability of a political subdivision under Chapter 451 is limited to money damages in a maximum amount of \$100,000 for each person aggrieved by a violation of that chapter.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect on the date the cause of action accrued, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2017.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 504.002, Labor Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The following provisions of Subtitles A and B apply to and are included in this chapter except to the extent that they are inconsistent with this chapter:

- (1) Chapter 401, other than Section 401.011(18) defining "employer" and Section 401.012 defining "employee";
- (2) Chapter 402;
- (3) Chapter 403, other than Sections 403.001-403.005;
- (4) Chapters 404 and 405;
- (5) Sections 406.006-406.009 and Subchapters B and D-G, Chapter 406, other than Sections 406.033, 406.034, 406.035, 406.091, and 406.096;
- (6) Chapter 408, other than Sections 408.001(b) and (c);
- (7) Chapters 409-412;
- (8) Chapter 413, except as provided by Section 504.053;
- (9) Chapters 414-417; and
- (10) Chapter 451, subject to the limitations of Subsection (a-1).

(a-1) The liability of a political subdivision under Chapter 451 is limited to money damages in a maximum amount of \$100,000 for each person aggrieved by and \$300,000 for each single occurrence of a violation of that chapter. For purposes of this subsection, a single occurrence is considered to be a single employment policy or employment action that results in discrimination against or discharge of one or more employees concurrently.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.