

BILL ANALYSIS

Senate Research Center

H.B. 451
By: Moody et al. (Creighton)
Business & Commerce
7/28/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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

H.B. 451 amends Chapter 451, 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. H.B. 451 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.

H.B. 451 amends Chapter 504, Labor Code, to limit 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.

H.B. 451 amends current law relating to waiver of immunity in certain employment discrimination actions in connection with a workers' compensation claim.

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 451, Labor Code, by adding Section 451.0025, as follows:

Sec. 451.0025. WAIVER OF IMMUNITY; PERMISSION FOR FIRST RESPONDER TO SUE. (a) Defines "first responder."

(b) Authorizes a first responder who alleges a violation of Section 451.001 (Discrimination Against Employees Prohibited) by a state or local government entity that employs the first responder to sue the governmental entity for the relief provided by this chapter (Discrimination Prohibited). Provides that sovereign or governmental immunity from suit is waived and abolished to the extent of liability created by this chapter.

(c) Provides that, to the extent a person has official or individual immunity from a claim for damages, this section does not affect that immunity.

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

(a) Provides that certain provisions of Subtitles A (Texas Workers' Compensation Act) and B (Discrimination Issues), including Chapter 451, subject to the limitations of Subsection (a-1), apply to and are included in this chapter (Workers' Compensation Insurance Coverage for Employees of Political Subdivisions) except to the extent that they are inconsistent with this chapter.

(a-1) Provides that 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. Provides that, 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. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2017.