

BILL ANALYSIS

Senate Research Center

S.B. 877
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Chapter 417, Labor Code, an injured employee/beneficiary may pursue a third-party action, seek damages and may also pursue workers' compensation benefits under the Texas Workers' Compensation Act. These third-party actions may be initiated in situations where persons or companies other than the employer for the injured employee caused the work-related injury or fatality (for example, pursuing the manufacturer of a machine that was not properly designed and caused an injury or pursuing a third-party who caused an automobile accident that involved the injured employee).

In these situations, if the injured employee/beneficiary recovers any damages under the third-party action, then Chapter 417, Labor Code, clarifies that the workers' compensation insurance carrier may recover any payments made by the carrier as a result of the workers' compensation claim (such as medical and/or indemnity benefits) from the net recovery amount received by the injured employee/beneficiary. Additionally, Chapter 417, Labor Code, provides for the payment of attorney fees to a claimant attorney in certain situations where the claimant attorney is also representing the interest of the workers' compensation insurance carrier in a third-party action.

The 79th Legislature, Regular Session, 2005, added Section 504.053, Labor Code, to allow political subdivisions the option of either establishing/contracting with a certified workers' compensation health care network under Chapter 1305, Insurance Code, or directly contracting with health care providers for health care services. New Section 504.053(e), Labor Code, also included the following language, "Nothing in this chapter waives sovereign immunity or creates a new cause of action."

Prior to the addition of Section 504.053(e), Labor Code, political subdivisions that subrogate and recover workers' compensation benefit payments made to the injured employee/beneficiary could not assert sovereign immunity to shield themselves from attorney fees. However, in recent years, some governmental entities may have begun to claim sovereign immunity from the payment of injured employee/beneficiary attorney fees, including attorney fees as a result of third-party actions on a workers' compensation claim. This could create inequity between injured employees/beneficiaries who have a workers' compensation claim administered by a political subdivision, compared to a certified self-insured employer or commercial workers' compensation insurance carrier.

S.B. 877 amends current law relating to liability of certain political subdivisions in certain workers' compensation actions.

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 Section 504.053(e), Labor Code, to provide that nothing in this chapter (Workers' Compensation Insurance Coverage for Employees of Political Subdivisions) waives sovereign immunity or creates a new cause of action, except that a political subdivision that self-

insures either individually or collectively is liable for attorney's fees as provided by Section 417.003 (Attorney's Fee for Representation of Insurance Carrier's Interest).

SECTION 2. Makes application of Section 504.053, Labor Code, as amended by this Act, prospective, relating only to a third-party action under Chapter 417 (Third-Party Liability), Labor Code.

SECTION 3. Effective date: September 1, 2017.