



HUMAN RESOURCES DEPARTMENT

FORT BEND COUNTY, TEXAS

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Director of Human Resources

To: Judge KP George
Commissioner Vincent Morales
Commissioner Grady Prestage
Commissioner Andy Meyers
Commissioner Dexter McCoy

From: Kim Dzierzanowski, Human Resources Generalist

Date: September 12, 2023

Subject: Revisions to Employee Information Manual Policy 710 – Workers Compensation

Human Resources is submitting the recommended revisions to the Fort Bend County Information Manual, Policy 710-Worker's Compensation, specifically the newly added sections 710.04-Benefits for Illness or Injury on Duty for First Responders, and 710.05 Lifetime Benefits. These policy revisions should provide guidance for compliance with the Texas Local Government Code. Below are the referencing House Bills that were placed into effect on September 1, 2023.

Section 710.04: Benefits for Illness or Injury on Duty for First Responders.

Defined under H.B. 471, the Texas Local Government Code is amended by adding Chapter 177A to read as follows: A firefighter, police officer, and emergency medical service provided must be provided with a leave of absence for an injury/illness related to the employee's duty. The leave of absence is subject to the following:

- (1) The leave shall include full pay for a period equal to the injury/illness, and if needed must continue for at least 1 year
- (2) After a year, a city may extend the leave at full or reduced pay
- (3) If the employee is temporarily disabled due to this injury/illness, and the leave of absence and extension expire, the employee may use accumulated time and benefits before they are placed on temporary leave
- (4) If they are able, the employee may return to light duty while recovering, and may continue for at least one year.
- (5) After recovery from temporary disability, the employee shall be reinstated at the same rank and seniority.
- (6) Another employee may voluntarily do the work of the injured employee until the person returns.
- (7) Workers' compensation benefits shall be offset, to the extent applicable, by any amount for incapacity received from the previous stipulations.
- (8) Collective bargaining, meet and confer, or other similar agreements for employee injury benefits must comply with provisions of the H.B. 471.

Section 710.05: Lifetime Benefits

Defined under H.B. 2468, Section 408.0041, Labor Code, a first responder who sustains a serious bodily injury in the scope of their employment or volunteering as a first responder, that renders them permanently unemployable, is entitled to receive lifetime income benefits, paid until their death for the injury if meeting the requirements listed in Section 408.161.

710 - WORKERS COMPENSATION

Section 710.01 County Policy on Work-Related Injuries

An employee who sustains an injury in the course and scope of employment must immediately notify their supervisor. The employee must also file a workers compensation claim form, which is available from the Risk Management Department. All employees will be required to submit to a timely drug and alcohol test following a work related injury or accident as defined in the Drug and Alcohol policies 301, 302, and 303 of the employee manual

Section 710.02 Reporting Requirements

Designated Department Personnel must report the injury to Risk Management via the online reporting system.

Employees on workers compensation leave are required to contact their supervisor every Monday during established business hours. A supervisor is also entitled to contact an employee at home when an employee is out on workers compensation leave.

Failure to comply with Fort Bend County's reporting procedure is grounds for discipline, up to and including termination of employment.

Section 710.03 Benefits

Employees who are unable to work due to a work-related injury or accident may receive temporary income benefits (TIBS) through workers compensation insurance. Employees may not substitute accrued paid leave for periods of paid workers compensation leave while receiving TIBS. Employees who are not receiving a County paycheck will not receive paid benefits such as vacation and sick leave accruals, holiday pay, or longevity pay. Employees will not receive credit toward vesting or service for retirement eligibility during any month in which no contribution is made to the employee's retirement account. However, a period of workers compensation leave will not be treated as a break in service if the employee returns to County employment.

Employees on workers compensation leave will be required to pay medical and dental premiums at the same rate as active full-time employees in order to maintain coverage. Payment arrangements must be made with Risk Management.

If an employee reaches Maximum Medical Improvement (meaning the injury related condition cannot be improved any further), and is unable to perform the essential functions of the job with or without a reasonable accommodation, their employment may be terminated. For information on continuation of medical insurance benefits after termination, see Policy 501 of this manual.

Section 710.04 Benefits for Illness or Injury on Duty for First Responders

As defined under the HB 471 effective on September 1, 2023. The Texas Local Government Code, is amended by adding Chapter 177A to read as follows: Illness or injury leave of absence for certain county first responders. As defined by Chapter 177A.001, first responder shall include a persons employed as:

- "Emergency medical services personnel" means a person described by Section 773.003, Health and Safety code, who is a paid employee of a political subdivision.
- "Firefighter" means a firefighter who is a permanent, paid employee of the fire department of a political subdivision.

- “Police officer” means a paid employee who is full-time, holds an officer license issued under Chapter 1701, Occupations Code, and regularly serves in a professional law enforcement capacity in the police department of a political subdivision.

A firefighter, police officer, or emergency medical services (EMS) personnel may be provided a leave of absence with full pay for a period commensurate with the nature of an illness or injury related to the person's line of duty. If necessary, the county shall continue the leave for at least one year. At the end of one-year period at the request of the department the leave maybe extended upon approval of Commissioner's Court. Leave extensions can be at full or reduced pay.

If the leave is not extended, or the person's salary is reduced below 60 percent of the person's regular monthly salary, and is not a member of a retirement system with disability retirement benefits and is temporarily disabled by a line of duty injury or illness, then the person would be subjected to use of accumulated accruals before being placed on a temporary leave.

Local Government Code, Section 177A.005, Return to Duty. If able, a firefighter, police officer, or emergency medical services personal may return to light duty while recovering from a temporary disability. If medically necessary, the light duty assignment may continue for at least one year. After recovery from the temporary disability, the person is to be reinstated at the same rank and with the same seniority the person had before.

As defined in Section 607.052 (b), Government Code, presumption under this subchapter does not apply:

1. To a determination of a survivor's eligibility for benefits under Chapter 615;
2. In a cause of action brought in a state or federal court except for judicial review of a proceeding in which there has been a grant or denial of employment-related benefits or compensation;
3. To determination regarding benefits or compensation under a life or disability insurance policy purchased by or on behalf of the detention officer, custodial officer, firefighter, peace officer, or emergent medical technician that provides coverage in addition to any benefits or compensation required by law; or
4. The firefighter, peace officer, or emergency medical technician, or their spouse during the marriage has used a tobacco product an average of four or more times per week during any six-month period in the five years preceding the diagnosis of the disease or illness.

As defined in Section 607.056, Government Code, A firefighter, peace officer, or emergency medical technician who suffers an acute myocardial infarction or stroke resulting in disability or death is presumed to have suffered the disability or death during the course and scope of employment as a firefighter, peace officer, or emergency medical technician if:

1. While on duty, and was engaged in a situation that involved stressful or strenuous physical activity involving fire suppression, rescue, hazardous material response, emergency medical

- services, or other emergency response activity; and
2. The acute myocardial infarction or stroke occurred not later than 24 hours after the end of a shift in which the firefighter, peace officer, or emergency medical technician was engaging in the activity described under Subdivision (1).

**Section 710.05
Lifetime Benefits**

Defined under H.B.2468, Section 408.0041, Labor Code, a first responder who sustains a serious bodily injury in the scope of their employment or volunteering as a first responder, that renders them permanently unemployable, is entitled to receive lifetime income benefits, paid until their death for the injury if meeting the requirements listed in Section 408.161 of the Labor Code. Adjudication of lifetime income benefits for a first responder may proceed in the manner prescribed for an expedited proceeding under Section 504.055

**Section 710.6
Family Medical
Leave Act**

If an employee sustains an injury in the course of employment for which the employee is receiving workers compensation benefits, the injury may also qualify for Family Medical Leave Act (FMLA) leave. In such cases, it will be the policy of Fort Bend County to designate the leave as FMLA concurrent with Workers Compensation.

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
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