



REIMBURSEMENT OF FIRST RESPONDER INJURY/ILLNESS LEAVE SUPPLEMENTAL INCOME GAP EXPENSES

Texas Municipal League Intergovernmental Risk Pool

TMLRiskPool@tmlirp.org

512-491-2300

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1. Is a city (or other political subdivision) required to pay a first responder who is injured or becomes ill while working their full pay while they are on workers' compensation leave?

Yes. [H.B. 471 \(2023\)](#) enacted a [state law](#) that requires a city (and any other political subdivision – the term “city” throughout this FAQ includes those) to provide a firefighter, police officer, or emergency medical services employee a leave of absence for an illness or injury related to their line of duty. The leave is with “full pay” for a period “commensurate with the nature of the line of duty illness or injury,” up to at least one year. TEX. LOC. GOV'T CODE §177A.003.

The bill language indicates that the legislature believes the temporary income benefits provided to other city employees under Texas workers' compensation law aren't sufficient for first responders. The temporary income benefit is set annually by the Texas Division of Workers' Compensation and is typically 70 percent of the employee's pre-illness or injury weekly income. The maximum weekly benefit in force as of October 1, 2024, is \$1,219, and no taxes are withheld from or paid on the payment. The benefit can continue up to two years, depending on the circumstances. TEX. LABOR CODE §§408.101 - 103.

The benefits afforded by H.B. 471 are offset by workers' compensation benefits. TEX. LABOR CODE §504.051(a).

2. Where can I find more information on H.B. 471?

It's likely that any city with a police, fire, and/or EMS department will eventually have a first responder seek the protections afforded by the bill. In advance of that scenario, city officials may wish to:

1. consult with local legal counsel about whether to adopt local implementing provisions.
2. consider how to define “illness or injury related to a first responder's line of duty.” For example, city official could decide to assume that the H.B. 471 benefits are available only to supplement a compensable workers' compensation injury or could presumably restrict or expand the definition to meet local needs and community values.
3. consider how to define “full pay.” For example, a city could choose to refer to the average weekly wage calculation used to determine workers' compensation benefits or presumably adopt a more restrictive or expansive local definition.
4. adopt policies related to first responder light duty assignments, reinstatement rank and seniority, and voluntary replacement service by qualified first responders.

The above are just some considerations city officials should discuss with local legal counsel. The Pool has prepared a detailed FAQ about the bill to assist.

3. Does the TML Risk Pool provide a line of coverage that can assist Members with some of the cost of an H.B. 471 offset?

Yes, starting October 1, 2024, a Pool Member with Workers' Compensation and General Liability Coverage can elect to purchase the "Reimbursement of First Responder Injury/Illness Leave Supplemental Income Gap Expenses" Endorsement.

The Endorsement is designed to help a Member offset *some* of the "gap" using a pre-set formula based on workers' compensation benefit calculations. To emphasize, the payment is to the *Member entity, not the individual first responder*. Depending on a first responder's pay, how a city implements H.B. 471, and other factors, the endorsement may not fully cover the "gap" between a first responder's workers' compensation benefit and their "full pay."

The Endorsement expressly provides that:

- A. The [Liability] **Fund** will reimburse the **Member** for wages paid in excess of the Temporary Income Benefits paid by the Texas Municipal League Workers' Compensation Joint Insurance Fund subject to the following conditions:
 - 1. Reimbursement shall not exceed 30 percent above the maximum Temporary Income Benefit rate established annually by the Division of Workers' Compensation; and
 - 2. Applies only to Workers' Compensation claims established, accepted, and administered by the Texas Municipal League Workers' Compensation Joint Insurance Fund within the following Workers' Compensation classifications:
 - 7720 – Police Officers - Paid
 - 7704 – Firefighters - Paid
 - 8888 – Motorcycle Police Officers - Paid
 - 9999 – Ambulance/EMS Service - Paid
 - B. This coverage shall only apply to wages paid after the first seven days and within the first 52 weeks of the reported date of injury. No other deductible shall apply.
 - C. The total liability of the **Fund** for all payments made under this endorsement shall not exceed \$100,000 in any one **Fund Year**.
- 4. What are examples of how the "Reimbursement of First Responder Injury/Illness Leave Supplemental Income Gap Expenses" Endorsement could help offset a Member's costs when a first responder is injured or becomes ill on the job?**

Again, the Endorsement is designed to help a *Member* "offset" the "gap" using a pre-set formula based on workers' compensation benefit calculations. The benefit *won't necessarily make the Member whole*.

By way of example, suppose a city's police officer who makes \$52,000 base pay per year is seriously injured in a vehicle collision while on-duty. Assuming the injuries are compensable under workers'

compensation law and accepted by the Pool, the Pool – as the city’s workers’ compensation carrier – will pay workers’ compensation temporary income benefits at 70 percent of her “average weekly wage (AWW),” up to a statutorily-capped benefit of \$1,219 per week. This benefit changes annually based on the DWC updated TIBs amount.

The Pool will use the AWW calculation to determine the gap offset benefit. Here are some examples:

1. If the officer’s AWW is equal to her base pay, her workers compensation benefit would be 70 percent of her \$1,000 weekly pay, or \$700 weekly. *Under the Endorsement, the Pool would then reimburse the Member for the “gap” amount of \$300 ($\$700 + \$300 = \$1,000$).*
2. If the officer’s AWW is *less* than her base pay (perhaps she had been on unpaid leave), her workers’ compensation benefit would be 70 percent of that amount. Thus, if she took several days unpaid leave causing her AWW to be \$800, she would receive a workers’ compensation benefit of \$560. *Under the Endorsement, the Pool would then reimburse the Member for the “gap” amount of \$240 ($\$560 + \$240 = \800).*
3. If the officer’s AWW is *more* than her base pay (perhaps she had been working overtime during the previous 13 weeks), her workers’ compensation benefit would be higher. For example, if her AWW with overtime is \$2,000, her weekly temporary income benefit would be capped at \$1,219. Under the Endorsement, the Pool would reimburse the Member for the 30 percent “gap” amount of \$522 ($\$1,741 \times .3 = \522).*

**Note: As of October 1, 2024, the Pool’s maximum weekly gap offset benefit is \$522, which is the difference between the DWC’s maximum TIB’s rate and the Pool-calculated maximum full pay cap of \$1,741.*

The scenarios above provide examples of how the endorsement could work and shouldn’t be relied on due to the possibility of exigent circumstances. Actual payments will be determined by Pool staff.

Please reach out to your [Risk Management Advisor](#) for more information.