

ESCAPING THE

WC LIMBO

A Roadmap to Resolution for the Municipal Workforce

A practical roadmap for Texas municipalities navigating long-term WC claims

01

The WC Limbo Timeline

Key decision points from Day 1 through Month 12 — and where cities most often get stuck.

02

ADA/FMLA/WC Triangle

How these three frameworks interact, the critical FMLA-to-ADA handoff, and documentation essentials.

03

The 12-Month Decision

Five options available at the critical inflection point, and the budget reality of each one.

04

Salary Supplement & TIBs

Understanding the 30% gap, your city's policy obligations, and consistency requirements.

05

HB 471: Police & Fire

What the law requires for first responders — and where cities face the greatest legal exposure.

06

“The Empty Seat”

Why an open claim isn't just an HR issue — it's a compounding budget drain affecting the entire city.

07

Quick-Action Checklist

A phase-by-phase action plan your HR team can use starting today.

THE WC LIMBO TIMELINE: MONTHS 1-12

Days 1-7

Injury & Initial Report

- Injury reported within 24 hrs
- DWC-1 filed with carrier
- Employee seeks authorized treatment
- Carrier notified; claim opened

Weeks 2-8

Acute Treatment Phase

- Treating doctor establishes MMI pathway
- TIBS payments begin (70% AWW)
- City supplement evaluated
- FMLA clock starts immediately
- ADA interactive process if applicable

Months 2-6

The WC Limbo Zone ⚠️

- Employee not fully recovered; not at MMI
- FMLA exhausted (week 12)
- City must decide: extended leave or separation
- Light duty / modified work options re-evaluated
- ADA reasonable accommodation analysis required

Months 6-12

Extended Recovery

- MMI approaching; impairment rating assigned
- IIBs or SIBs may begin post-MMI
- Long-term leave policy review
- Return-to-work plan or separation documented

NAVIGATING THE ADA / WC / FMLA TRIANGLE

FMLA

- Up to 12 weeks unpaid, job-protected leave (eligible employees)
- Must be designated concurrent with WC leave — do not delay
- Clock starts at injury, not when you notify the employee
- Expires at 12 weeks — have a plan ready before it does
- No FMLA extension exists; transition to ADA at expiration

WC

- Provides wage replacement + medical benefits
- Does not limit leave rights under FMLA or ADA
- Employee on WC can exhaust FMLA simultaneously
- In Texas, WC claims cannot be settled — they stay open until MMI and formal closure
- Inconsistent treatment of similar cases = discrimination claim risk

ADA

- Applies when WC injury rises to level of a 'disability'
- Interactive process must begin — document every conversation
- Reasonable accommodation may include extended leave
- Light duty as accommodation must be genuine, not pretextual
- Undue hardship is a high bar — do not assume without analysis

THE CRITICAL HANDOFF: FMLA EXPIRATION → ADA INTERACTIVE PROCESS

At week 12, immediately begin the ADA interactive process. Request updated medical documentation. Evaluate all reasonable accommodations. Document good faith engagement. Failure to do so is one of the top sources of employment litigation for Texas cities.

SALARY SUPPLEMENT DURING TIBS

THE 30% GAP

70% — TIBs Payment

30% GAP

TIBs are set at 70% of average weekly wage, up to the state maximum — leaving a 30% gap that cities may choose to supplement.

IF YOUR CITY OFFERS A SUPPLEMENT — REVIEW THESE:

- Is the supplement policy in writing in your personnel manual?
- Is it limited by duration (e.g., 90 days, 6 months)?
- Does it apply to all employee classes, or only certain classifications?
- Is it consistently administered? Inconsistency = liability.
- Does it stop automatically when FMLA ends, at MMI, or at a fixed date?

What matters is that the policy is documented, communicated, and consistently applied — whether or not your city offers a supplement.

HB 471: WHAT IT MEANS FOR POLICE & FIRE

SCOPE

Police & Fire Only

HB 471 applies exclusively to peace officers and firefighters. It does not extend to other municipal employees.

If you manage a mixed workforce, apply this framework only to PD and Fire classifications.

Presumption of Compensability

Cancer, infectious disease, heart attack, stroke — burden shifts to employer to disprove work connection.

Health Insurance Continuation

Cannot reduce or eliminate health benefits for officer/firefighter on WC leave solely due to the leave.

Benefit Continuation

Continuation of benefits protections apply during the entire claim period.



Termination Risk

Especially careful about termination decisions for PD/Fire during active WC claims. Heightened legal exposure.

"We just don't have light duty for that position."



Patrol Car

Empty seat

Short-staffed shift must be covered by a colleague at 1.5× pay — every single day.



Fire Station

Running short

Minimum staffing mandates force mandatory overtime to meet public safety requirements.



Utility Truck

Sitting idle

Deferred maintenance and project delays add indirect costs on top of the direct WC claim.

THE "LIMBO" ZONE: Months 3-12

The employee is medically stable but physically absent. The claim stays open, costs accumulate, and the city's experience modifier begins to climb — quietly increasing WC premiums across all departments for years to come. Leadership sees one line item. The budget absorbs a multi-year compounding burden.

"We just don't have light duty for that position."

THE EMPTY SEAT PROBLEM: THE CITY ISN'T JUST WAITING — IT'S PAYING THREE TIMES FOR ONE POSITION

Patrol Car

Empty seat — shift covered at 1.5x pay, every day

Fire Station

Minimum staffing mandates force mandatory overtime

Utility Truck

Idle equipment + deferred maintenance compound costs

1x

Direct Salary Gap

HB 471 MANDATED

HB 471 requires at least one year of full-pay leave for line-of-duty injuries. The city covers the 30% gap between TIBs (70%) and full salary — every pay period, for every first responder on claim.

1.5x

Overtime Coverage

ONGOING BLEED

Every essential shift left vacant — patrol, apparatus, crew slot — must be covered at 1.5x base pay. Not a one-time cost. For every day the claim stays open, this meter runs against the general fund.

+25%

WC Premium Spike

3-YEAR IMPACT

A high-reserve open claim spikes the city's E-Mod by 15–25%. That increase hits every department citywide — and stays elevated for three full policy years after the claim closes.

THE GHOST POSITION: CUMULATIVE COST EXPOSURE

Illustrative — \$50K base salary, essential position

CUMULATIVE DIRECT COST (salary gap + OT backfill combined)



Before Month 6

Act now. ADA interactive process, transitional duty, or reassignment can cut exposure by more than half before it compounds.

Month 6-12 Danger Zone

OT costs lock in. E-Mod reserves build. Each additional month raises the experience modifier — locking in premium increases for 3 future policy years.

After Month 12 — E-Mod Hits

In Texas, WC claims cannot be settled. The claim stays open until MMI and closure — so every month of inaction is a month of locked-in compounding cost across the entire city's WC program.

THE 12-MONTH DECISION: 5 OPTIONS & THEIR BUDGET REALITY

HB 471 changes the math for PD & Fire

Extended Leave

 HIGH COST

The Status Quo

"We'll keep waiting until they're 100%."

A

Position frozen — can't hire a replacement. City pays 2.5× cost of one employee: full salary + 1.5× OT for coverage. Every month = compounding bleed.

Transitional Duty

 NEUTRAL

Light Duty in the Office

"Can't be on the street? We'll find work for you."

B

City pays the salary — but finally gets value in return. Employee assists with body-cam redaction, SOP updates, admin tasks that otherwise fall on full-duty staff.

ADA Reassignment

 POSITIVE

Move to a Different Role

"Can't do the old job — but we have a spot elsewhere."

C

"Unfreezes" the original department's budget line. City can hire a new, full-duty officer or firefighter — restoring operational capacity immediately.

Administrative Separation

 LONG-TERM SAVINGS

The Soft Separation

"All options exhausted. Public safety requires filling this seat."

D

Stops the overtime bleed permanently. Signals end of the employment relationship. In Texas, WC claims cannot be settled — but separation allows the claim to move toward MMI determination and eventual closure.

Retirement / Disability

 CLAIM CLOSURE

TMRS or Occupational Disability

"This career is over — let's give them a dignified exit."

E

For PD/Fire: TMRS occupational disability retirement may be available. Closes the WC claim, ends the payroll obligation, and frees the position. HB 471 benefit protections apply during transition.

COMMON CITY MISTAKES TO AVOID

01

Failing to run FMLA concurrently from Day 1 of the WC claim

02

Waiting until FMLA expires to think about ADA obligations

03

No documentation of the interactive process conversations

04

Treating PD/Fire the same as general employees — ignoring HB 471

05

Treating separation as claim closure — in Texas, WC claims stay open until MMI and cannot be settled

06

Inconsistent treatment of similar cases — creates discrimination claim risk

QUICK-ACTION CHECKLIST: WC LIMBO RESPONSE

Days 1-30

- Report injury, open claim, notify carrier
- Provide DWC-1 form & authorized physician list
- Designate FMLA concurrently — send notice within 5 business days
- Document light duty availability
- For PD/Fire: flag HB 471 in claim file
- Confirm supplement policy and duration

Months 1-3

- Track FMLA usage weekly — know expiration date
- Obtain updated medical status reports every 30 days
- Assess if restrictions qualify for modified duty
- Begin ADA analysis if long-term disability appears likely
- Communicate supplement policy end date in writing

Months 3-6

- At FMLA expiration: initiate ADA interactive process immediately
- Request functional capacity evaluation if MMI not reached
- Consult city attorney before any adverse employment action
- Document all accommodation offers and employee responses
- Evaluate whether extended leave is reasonable under ADA

Months 6-12

- Obtain MMI determination and impairment rating
- Review return-to-work plan with HR, risk, and department head
- If separation: confirm ADA analysis is complete and documented
- Coordinate with carrier on IIBs/SIBs transition post-MMI
- For PD/Fire: evaluate TMRS disability retirement eligibility
- Archive all documentation in personnel and risk files

Questions?

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