



**Fourth Court of Appeals**  
**San Antonio, Texas**

**OPINION**

No. 04-22-00347-CV

**THE CITY OF SAN ANTONIO FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL  
SERVICE COMMISSION and the City of San Antonio,**  
Appellants

v.

**Gabriel SAENZ,**  
Appellee

From the 408th Judicial District Court, Bexar County, Texas  
Trial Court No. 2022CI04429  
Honorable Angelica Jimenez, Judge Presiding

Opinion by: Rebeca C. Martinez, Chief Justice

Sitting: Rebeca C. Martinez, Chief Justice  
Beth Watkins, Justice  
Liza A. Rodriguez, Justice

Delivered and Filed: April 27, 2023

**REVERSED AND RENDERED**

Appellants the City of San Antonio Fire Fighters' and Police Officers' Civil Service Commission and the City of San Antonio (collectively, the "Commission") appeal from the denial of their plea to the jurisdiction. Because the trial court lacks subject-matter jurisdiction, we reverse and render judgment dismissing appellee Gabriel Saenz's lawsuit.

**BACKGROUND**

Saenz is a fire fighter with the City of Canyon Lake. He applied for employment with the San Antonio Fire Department, but his application was disqualified. Saenz then filed an appeal

with the Commission. On February 14, 2022, the Commission held a hearing and orally denied Saenz's appeal. On February 24, 2022, an employee of the Commission emailed Saenz a letter stating the Commission's decision. On March 10, 2022, Saenz filed an original petition with the district court to set aside the Commission's decision, pursuant to section 143.015 of the Texas Local Government Code. *See* TEX. LOCAL GOV'T CODE ANN. § 143.015(a). Relevant to this appeal, section 143.015(a) provides:

(a) If a fire fighter or police officer is dissatisfied with any commission decision, the fire fighter or police officer may file a petition in district court asking that the decision be set aside. The petition must be filed within 10 days after the date the final commission decision:

(1) is sent to the fire fighter or police officer by certified mail; or

(2) is personally received by the fire fighter or police officer or by that person's designee.

*See id.* The Commission then filed a plea to the jurisdiction and later an amended plea, arguing that the district court lacks jurisdiction because Saenz's petition was untimely and because Saenz is not a "fire fighter" entitled to appeal under the section. *See id.* The trial court denied the Commission's plea, and the Commission timely appealed.

#### DISCUSSION

To establish a trial court's jurisdiction over a controversy, a plaintiff suing the State or one of its political subdivisions must establish a waiver of immunity. *Tex. Nat. Res. Conservation Comm'n v. IT-Davy*, 74 S.W.3d 849, 855 (Tex. 2002). "Absent a valid statutory or constitutional waiver, trial courts lack subject-matter jurisdiction to adjudicate lawsuits against municipalities." *Suarez v. City of Tex. City*, 465 S.W.3d 623, 631 (Tex. 2015). Sovereign immunity is properly asserted in a plea to the jurisdiction. *Tex. Dep't of Parks & Wildlife v. Miranda*, 133 S.W.3d 217,

225–26 (Tex. 2004).<sup>1</sup> Because subject-matter jurisdiction is a question of law, we review a trial court’s ruling on a plea to the jurisdiction *de novo*. *Nettles v. GTECH Corp.*, 606 S.W.3d 726, 731 (Tex. 2020). When, as here, a jurisdictional plea challenges the pleadings, we must decide whether the plaintiff has pleaded facts that affirmatively demonstrate the trial court’s jurisdiction to hear the claims. *Tex. Dep’t of Crim. Just. v. Rangel*, 595 S.W.3d 198, 205 (Tex. 2020).

The relevant jurisdictional facts are undisputed. As alleged, Saenz is an applicant for employment with the San Antonio Fire Department, and his counsel represents that Saenz is a member of the City of Canyon Lake Fire Department. The Commission argues the trial court lacks subject-matter jurisdiction because Saenz’s lawsuit was filed beyond the ten-day deadline stated in section 143.015(a) of the Local Government Code and because Saenz is not a “fire fighter,” as that term is used in the section. Because both issues are novel and potentially dispositive, we reach only one, which we determine is dispositive. *See* TEX. R. APP. P. 47.1. We sustain the Commission’s second issue and hold Saenz is not a “fire fighter,” entitled to appeal the Commission’s decision pursuant to section 143.015(a).

Whether Saenz is a “fire fighter,” for purposes of section 143.015(a), is a matter of statutory construction. Statutory construction is a legal question that we review *de novo*. *Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 437 (Tex. 2009). Our primary focus is to give effect to legislative intent, considering the language of the statute, as well as its legislative history, the objective sought, and the consequences that would flow from alternate constructions. *Crown Life Ins. Co. v. Casteel*, 22 S.W.3d 378, 383 (Tex. 2000). We seek that intent “first and foremost” in the statutory text. *Lexington Ins. Co. v. Strayhorn*, 209 S.W.3d 83, 85 (Tex. 2006). We construe

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<sup>1</sup> For convenience, we use the terms sovereign immunity and governmental immunity interchangeably; however, the terms involve distinct concepts. Sovereign immunity refers to the State’s immunity from suit and liability, while governmental immunity protects political subdivisions of the State. *See Engelman Irrigation Dist. v. Shields Bros., Inc.*, 514 S.W.3d 746, 747 n.1 (Tex. 2017); *Wichita Falls State Hosp. v. Taylor*, 106 S.W.3d 692, 694 n.3 (Tex. 2003).

words according to their plain meaning and in the context of the statute’s surrounding provisions. *See* TEX. GOV’T CODE ANN. § 311.011(a); *In re Off. of the Att’y Gen. of Tex.*, 456 S.W.3d 153, 155–56 (Tex. 2015). As the supreme court has instructed:

When construing statutes, or anything else, one cannot divorce text from context. The meaning of words read in isolation is frequently contrary to the meaning of words read contextually in light of what surrounds them. Given the enormous power of context to transform the meaning of language, courts should resist rulings anchored in hyper-technical readings of isolated words or phrases. The import of language, plain or not, must be drawn from the surrounding context, particularly when construing everyday words and phrases that are inordinately context-sensitive.

*Off. of the Att’y Gen.*, 456 S.W.3d at 155–56.

“Fire fighter” is defined in Chapter 143, in relevant part, as “a member of a fire department who was appointed in substantial compliance with this chapter . . . .” TEX. LOCAL GOV’T CODE ANN. § 143.003(4). Saenz is a member of the City of Canyon Lake Fire Department, and there is no dispute that he was appointed to that department in compliance with Chapter 143. However, the parties dispute whether Saenz is a “fire fighter” with respect to the San Antonio Fire Department and the City of San Antonio Fire Fighters’ and Police Officers’ Civil Service Commission. We hold he is not.

Chapter 143 is referred to as the Fire Fighter and Police Civil Service Act, and it provides a framework for municipalities that adopt the Chapter. *See* TEX. LOCAL GOV’T CODE ANN. § 143.002(a)(1)(C) (specifying the chapter only applies to a municipality that has voted to adopt the Chapter); *Jones v. Ojeda*, 21 S.W.3d 569, 570 (Tex. App.—San Antonio 2000, pet. denied). Within the Chapter, many provisions recognize only a single instance of any entity. For example, the Chapter defines “commission” as “*the* Fire Fighters’ and Police Officers’ Civil Service Commission,” although there is one such entity for each municipality that adopts the Chapter. TEX. LOCAL GOV’T CODE ANN. § 143.003(1) (emphasis added). Relatedly, “[d]irector’ means *the*

director of fire fighters’ and police officers’ civil service[.]” *id.* § 143.003(3) (emphasis added), and “[d]epartment head’ means *the* chief or head of a fire or police department . . . .” *Id.* § 143.003(2) (emphasis added); *see also id.* § 143.014(f) (“*The* department head shall make each appointment under this section . . . .”) (emphasis added).

Beyond definitions, substantive provisions within the Chapter reference only one fire fighters’ and police officers’ civil service commission, although there are multiple such commissions across the State — one for every municipality that has adopted the Chapter. For example, section 143.006(a) provides: “On adoption of this chapter, *the* Fire Fighters’ and Police Officers’ Civil Service Commission is established in the municipality.” *Id.* § 143.006(a) (emphasis added). Another example is section 143.010(a):

Except as otherwise provided by this chapter, if a fire fighter or police officer wants to appeal to *the* commission from an action for which an appeal or review is provided by this chapter, the fire fighter or police officer need only file an appeal with *the* commission within 10 days after the date the action occurred.

*Id.* § 143.010(a) (emphasis added). Likewise, there are repeated references to “*the* department,” although, again, the Chapter applies to multiple police and fire departments across the State. *See, e.g., id.* § 143.014(g) (“A person who is removed from the position by the department head shall be reinstated in *the* department and placed in the same classification, or its equivalent, that the person held before appointment. The person retains all rights of seniority in *the* department.” (emphasis added)); *id.* § 143.030(c).

Thus, within the context of Chapter 143, “a member of *a* fire department,” *id.* § 143.003(4) (emphasis added), means a member of *the* fire department for the particular municipality that has adopted Chapter 143 and whose adoption of the Chapter established “*the* Fire Fighters’ and Police Officers’ Civil Service Commission,” *id.* § 143.006(a) (emphasis added), for that municipality. To hold otherwise would ignore the context of Chapter 143, which allows for the creation of many

civil service commissions across the State but nevertheless refers to “*the* commission,” “*the* department,” and “*the* department head,” as singular entities repeatedly. *See, e.g., id.* §§ 143.003(1)–(3), .006(a), .010(a), .014(f)–(g), .030(c).

Our holding is consistent with the supreme court’s guidance to interpret words “in light of the text and structure of surrounding and related provisions.” *Off. of the Att’y Gen.*, 456 S.W.3d at 156. The supreme court, when confronted with the phrase “any other order” in a statute, rejected an overly broad interpretation, stating:

Taken out of context, the Family Code’s “any other order” language might seem a sweeping provision of power, giving a trial court *carte blanche* to do as it pleases. *See* TEX. FAM. CODE § 105.006(c)(2). But studied in context — in light of the text and structure of surrounding and related provisions — there is no question that “any other order” cannot bear the broad meaning ascribed by the trial court. Rather, a trial court may issue “any other order” only to protect the parties likely to be harmed by disclosure of protected information.

*Id.*; *see also Perrin v. City of Temple*, No. 03-18-00736-CV, 2020 WL 6533659, at \*8–9 (Tex. App.—Austin Nov. 6, 2020, no pet.) (mem. op.) (considering context to construe phrase “in order of seniority” in section 143.085(a) of the Local Government Code to require reinstatement lists be in order of seniority in a position, without reference to seniority in a department); *Estate of Neal*, No. 02-16-00381-CV, 2018 WL 283780, at \*4–5 (Tex. App.—Fort Worth Jan. 4, 2018, no pet.) (mem. op.) (holding phrase “all other things” in a will did not devise real property because phrase, “when read in context,” encompassed only intangible personal property).

Likewise, here, we must reject Saenz’s overly broad interpretation of “fire fighter” to include him, as a member of the City of Canyon Lake Fire Department, in his challenge to a decision of the City of San Antonio Fire Fighters’ and Police Officers’ Civil Service Commission. Saenz’s interpretation ignores the text and structure of surrounding and related provisions of Chapter 143. *See Off. of the Att’y Gen.*, 456 S.W.3d at 156. With respect to the San Antonio Fire Department, Saenz is only an applicant and not a “fire fighter” as that term is used in Chapter 143.

*See* TEX. LOCAL GOV'T CODE ANN. § 143.003(4). Consequently, section 143.015 does not provide Saenz with a right to appeal the Commission's decision. *See* §§ 143.003(4); 143.015(a); *cf. Jones*, 21 S.W.3d at 571 ("The Civil Service Act was designed to protect tenured city employees." (citing *Proctor v. Andrews*, 972 S.W.2d 729, 737 (Tex. 1998))).

#### CONCLUSION

Because Saenz has not established a waiver of governmental immunity, pursuant to section 143.015 or otherwise, we reverse the trial court's order denying the Commission's plea to the jurisdiction and render judgment dismissing Saenz's lawsuit.

Rebeca C. Martinez, Chief Justice