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BILL ANALYSIS



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Senate Bill 102 (as introduced 1-30-07)
Sponsor: Senator Valde Garcia
Committee: Commerce and Tourism

Date Completed: 4-17-07

CONTENT

The bill would amend the Worker's Disability Compensation Act to do all of the following:

- Include respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers as a "personal injury" for certain firefighters.**
- Specify that those cancers in firefighters, as well as respiratory and heart disease in certain law enforcement officers and firefighters, would be considered to arise out of and in the course of employment in the absence of affirmative evidence of nonwork-related causation or specific incidents establishing an independent cause.**
- Specify that those cancers in firefighters would not be considered employment related if a firefighter were a consistent smoker within five years before filing a claim.**
- Specify that a firefighter with any of those cancers, or a law enforcement officer or firefighter with respiratory or heart disease, who was eligible for pension benefits would not be prohibited from receiving benefits under the Act for medical expenses not provided by the pension program.**

Personal Injury

Under the Act, "personal injury" includes respiratory and heart diseases, or illnesses resulting from respiratory and heart diseases, that develop or manifest themselves during a period while the person is in active service and that result from the performance of his or her duties, in the case of a member of a fully paid fire department of an airport run by a county road commission in counties of at least 1 million in population, or by a State university or college; a member of a fully paid fire or police department of a city, township, or incorporated village employed and compensated upon a full-time basis; a county sheriff and the sheriff's deputies; a member of the State Police; a conservation officer; or a State Police motor carrier enforcement officer. ("Personal injury" refers to a disease or disability that is due to causes and conditions that are characteristic of and peculiar to the business of the employer and that arises out of and in the course of employment.) The bill would refer to a fire department of an airport operated by a county, rather than one run by a county road commission in a county with a population of 1 million or more, and would include a public airport authority.

In addition, under the bill, for a member of a fully paid fire department who was employed for at least 24 months, "personal injury" would include all respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers.

Work-Related Causation & Smoking

Under the Act, respiratory and heart diseases, or illnesses resulting from them, in the firefighters or law enforcement officers described above, are considered to arise out of and in the course of employment in the absence of evidence to the contrary. Under the bill, those diseases, as well as respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers in the firefighters, would be considered to arise out of and in the course of employment in the absence of affirmative evidence of nonwork-related causation or specific incidents that established a cause independent of the employment and not merely evidence of a preexisting condition or an abstract medical opinion that employment was not the cause of the disease or condition.

Respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers of a member of a fully paid fire department would not be considered to arise out of and in the course of employment if evidence were shown that the person was a consistent smoker of cigarettes or other tobacco products within the five years immediately preceding the date of filing a claim under the Act.

Pension Benefits

Currently, as a condition precedent to filing an application for benefits, a claimant who is a firefighter or law enforcement officer covered by the respiratory or heart disease provision described above, first must apply for and do all things necessary to qualify for any pension benefits to which he or she may be entitled. Under the bill, this requirement also would apply to a firefighter covered by the bill's provision including particular cancers as a "personal injury".

Also, if a firefighter or law enforcement officer covered by the respiratory and heart disease provision, or a firefighter covered by the bill's personal injury provision, were eligible for any pension benefits, that eligibility would not prohibit the employee or his or her dependents from receiving benefits under the Act for the medical expenses or portion of medical expenses that were not provided for by the pension program. The presumption that the person's disease arose out of and in the course of employment also would apply to the medical benefits provided under the Act.

MCL 418.405

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State government.

The bill would increase the cost of local governments by an unknown amount. The expansion of health conditions that for fire fighters would be presumed to be work-related would tend to increase the costs of worker's compensation paid by local governments.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.