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SFA



BILL ANALYSIS

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Senate Bill 451 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Mike Rogers
Committee: Human Resources, Labor, Senior Citizens and Veterans Affairs

Date Completed: 10-11-99

RATIONALE

Fire fighters are involved in fighting industrial as well as residential fires and, apparently, are at a higher risk of developing certain types of cancer than are members of other occupations. Currently, the Worker's Disability Compensation Act contains a presumption that respiratory and heart diseases that arise during service as a fire fighter are a "personal injury" for purposes of qualifying for benefits under the Act. The law, however, does not similarly recognize respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers as "personal injury" in the workplace for fire fighters. There is some sentiment that fire fighters' long-term health concerns should be protected so that they will not have to think twice about their own family's welfare before entering a building to perform their job. Some people believe that fire fighters who develop specific types of cancer in the course of employment and who are not covered under a disability pension should receive workers' compensation benefits.

CONTENT

The bill would amend the Worker's Disability Compensation Act to include respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers in the term "personal injury" for members of fully paid fire departments employed for at least 24 months, whose primary duty for 24 months or more was fighting fires or inspecting fire scenes. Those cancers would not be considered to arise out of and in the course of employment, however, if evidence showed that the fire department member was a consistent smoker of cigarettes or other tobacco products within the five years immediately before filing a claim under the Act.

Currently, "personal injury" must be construed to include respiratory and heart diseases or resulting illnesses that develop or manifest themselves while a member of a fully paid fire department or police department is in active service and that result from the duties performed for the department. Such respiratory and heart diseases or illnesses are considered to arise out of and in the course of

employment, unless there is evidence to the contrary. Under the bill, the specified cancers also would be considered to arise out of and in the course of employment in the absence of evidence to the contrary.

Further, a claimant for benefits under the current provisions must first apply for any pension benefits to which he or she may be entitled. If pension benefits are not awarded, then the presumption of "personal injury" applies. Under the bill, a fire fighter applying for benefits due to the specified cancers also would have to apply for pension benefits first.

In addition, the bill would require the Bureau of Worker's Disability Compensation to research the financial and procedural implications of applying a cancer presumption to volunteer fire fighters. The study would have to include a description of amendments to the Act that would be necessary to apply a cancer presumption on an equal basis to all classifications of fire fighters. The Bureau would have to provide the report to the chairs and vice-chairs of the Senate Human Resources, Labor and Veterans Affairs Committee and the House Labor and Occupational Safety Committee by June 30, 2000.

MCL 418.405

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Fire fighters have a higher likelihood of being exposed to smoke, fumes, and carcinogenic substances than members of many other occupations. Fighting fires involves fire suppression, as well as burned building demolition and overhaul after a fire. Respirators are not completely effective and industrial fires can cause toxic and hazardous fumes even after a fire has been put out. Some

people believe that fire fighters suffering from respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers should be eligible for workers' compensation benefits, unless they were covered under a disability pension or they were consistent smokers of cigarettes or other tobacco products.

Opposing Argument

The bill contains some ambiguous provisions. The bill would not define the reference to "consistent smoker". Under the bill, fire fighters who were life-long smokers up to the five years before filing a claim under the Act could be eligible for benefits, while those who had not smoked for most of their lives but took up the habit in recent years could be ineligible.

Opposing Argument

The bill would create a link between fire-fighting and respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers. Any occupational causal link, however, is disputable and unique to each individual.

Response: The validity of the causal link could be rebutted before the magistrate in each individual case.

Opposing Argument

A similar bill, Senate Bill 789 of 1997-98, passed the Senate and the House of Representatives but was vetoed by the Governor. In his veto message, the Governor characterized the legislation as "improperly drafted" and asserted that it "would have the effect of extending the presumption to a fire fighter who was never exposed to a chemical fire or toxic substances" created by a fire. Although Senate Bill 451 (S-1) would be limited to fire fighters who primarily fought fires or investigated fire scenes for at least two years, the bill does not include a requirement that a fire fighter be exposed to chemical or other toxic substances in order to be eligible for workers' compensation benefits. Furthermore, even when they are not fighting a fire, fire fighters may be exposed to toxic and carcinogenic substances such as soot (from cleaning respirator equipment) and diesel exhaust emissions from fire trucks. Rather than limiting coverage as proposed, it would be more compassionate to err on the side of safety and long-term health care coverage for fire fighters and their families.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would require the Department of Consumer and Industry Services to conduct a study on cancer presumption for fire fighters. According to the Department, if it contracted with an outside consulting firm to provide this service, the estimated cost could be \$150,000 to \$200,000.

Also, the bill could have a fiscal impact on local

governments. The bill would eliminate coverage for specific cancer and illnesses for those members of a fully paid fire department where it was proven that an individual was a consistent smoker for five years before filing the claim. This change could lower worker's compensation claim costs for the local fire departments if the premiums for this insurance were lowered as a result of this condition.

Fiscal Analyst: M. Tyszkiewicz

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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.