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BILL ANALYSIS



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Senate Bill 211 (as introduced 2-20-13)
Sponsor: Senator Tory Rocca
Committee: Judiciary

Date Completed: 3-18-13

CONTENT

The bill would amend Chapter 4 (Occupational Diseases and Disablements) of the Worker's Disability Compensation Act to do the following:

- Include respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, 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.**
- Provide that those cancers in firefighters could be shown not to be employment related if a firefighter were a substantial and consistent user of tobacco within 10 years before the date of injury.**
- 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

The Act establishes benefits for personal injury sustained by an employee in the course of his or her employment, or for death resulting from such personal injury. The definition of "personal injury" in Chapter 4 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 term includes respiratory and heart diseases, or illnesses resulting from respiratory and heart diseases, that develop or manifest themselves 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 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; a State Police motor carrier enforcement officer; or 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. 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 and a member of a fully paid public fire authority employed and compensated on a full-time basis.

In addition, under the bill, for a member of a fully paid fire department or public fire authority who was employed for at least 60 months, "personal injury" would include all respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, and lymphatic cancers. This would apply only to a member of a fully paid fire department or public fire authority who was in the department's or authority's active service, had been in active service for at least 60 months at the time the cancer manifested itself, and was exposed to the hazards incidental to fire suppression, rescue, or emergency medical services in the performance of his or her work-related duties.

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, thyroid, testicular, prostate, and lymphatic cancers in the firefighters, would be presumed 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. Neither mere evidence that the condition was preexisting, nor an abstract medical opinion that the employment was not the cause of the disease or condition, would be sufficient to overcome the presumption.

Respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, and lymphatic cancers of a member of a fully paid fire department or public fire authority could be shown not to arise out of and in the course of employment if scientific evidence were introduced that the person was a substantial and consistent user of cigarettes or other tobacco products within the 10 years immediately preceding the date of injury, and that that use was a significant factor in the cause, aggravation, or progression of the cancer.

Pension Benefits

Currently, before filing an application for benefits, a claimant who is a firefighter or law enforcement officer covered by the definition of "personal injury" that includes respiratory or heart disease, 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 proposed definition of "personal injury" that would include particular cancers.

Also, if a firefighter or law enforcement officer covered by either definition 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 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 worker's compensation benefits of local governments by an unknown amount. The expansion of health conditions for firefighters that are presumed to be work-related would tend to increase the costs of worker's compensation paid by local governments.

Fiscal Analyst: Josh Sefton

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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.