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SFA



BILL ANALYSIS

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Senate Bill 789 (as reported without amendment)
Sponsor: Senator Mike Rogers
Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 11-25-97

RATIONALE

Fire fighters are involved in fighting residential as well as industrial fires, and are at a higher risk of developing certain types of cancer than are members of other occupations. Current law, however, does not recognize occupational cancer or resulting illnesses as "personal injury" in the workplace for fire fighters. There is some concern that fire fighters should 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 occupational cancer or resulting illnesses in the course of employment and who are not covered under a disability pension should receive worker compensation benefits.

CONTENT

The bill would amend the Worker's Disability Compensation Act to include occupational cancer or illnesses resulting from occupational cancer, in the term "personal injury" for members of fully paid fire departments. An occupational cancer or resulting illnesses of a member of a fully paid fire department, however, would not be considered to arise out of and in the course of employment if evidence were shown that the member was a consistent smoker of cigarettes or other tobacco products within five years immediately before filing a claim under the Act.

"Occupational cancer" would mean a type of cancer that had been shown to be linked with exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances or other hazards present during performance of duties for the fire department.

Currently, "personal injury" includes respiratory and heart diseases or resulting illnesses, which develop or manifest themselves while the member of the fully paid fire department or police department is in

active service and result from the duties performed for the department. Such respiratory and heart disease or illnesses are considered to arise out of and in the course of employment, unless there is contrary evidence.

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. Fire fighting 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. Even when they were 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. Some people believe that fire fighters suffering from occupational cancer or resulting illnesses should be eligible for worker 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. It would not specify a fire fighter's necessary employment duration to be eligible for the worker compensation benefits. Fire fighters, therefore, could be employed for one day and claim their cancer or resulting illnesses as "personal injury". Furthermore, 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.

Opposing Argument

The bill would take occupational cancer or resulting illnesses and create a link to the fire fighting occupation. The causal link, however, is disputable and unique to each individual.

Response: The validity of the causal link of occupational cancer or resulting illnesses to the fire fighting occupation could be rebutted before the magistrate in each individual case.

Legislative Analyst: N. Nagata

FISCAL IMPACT

According to the Department of Consumer and Industry Services, the bill would have no fiscal impact on the State, but could have a fiscal impact on local governments. The bill would eliminate occupational 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.