

WORKERS' COMPENSATION: FIREFIGHTERS' CANCER

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4473

Sponsor: Rep. Jennifer Haase

Committee: Labor

Complete to 3-17-09

A SUMMARY OF HOUSE BILL 4473 AS INTRODUCED 2-26-09

The bill would amend the Worker's Disability Compensation Act to establish certain cancers as a presumption of eligibility for firefighters under the worker's compensation program, if the firefighters had not smoked cigarettes or used tobacco products during the five years prior to filing a claim.

Specifically under the bill, "personal injury" would include all respiratory tract, bladder, skin, brain, kidney, blood, and lymphatic cancers for a member of a fully paid fire department who was employed 60 months or more. The subsection would only apply to a member of a fully paid fire department or public fire authority who was exposed to the hazards incidental to fire suppression, rescue, or emergency medical services in the performance of work-related duties for the department of authority. (This would be in addition to the current provision that includes respiratory diseases and heart diseases under "personal injury" for firefighters and for certain public safety officers.)

These diseases would be considered to arise out of and in the course of employment, *in the absence of affirmative evidence of non-work related causation, or specific incidents that establish a cause independent of the employment, and not merely evidence of a pre-existing condition or an abstract medical opinion that employment was not the cause of that disease or condition.* However, if there is evidence that a member of a fully paid fire department or public fire authority had been a consistent smoker of cigarettes or other tobacco products within the five years immediately preceding the date of filing a claim, then the diseases noted above would *not* be considered as arising out of and in the course of employment.

Currently, the section being amended says that "personal injury" for the purposes of workers' compensation for various public safety personnel and firefighters includes respiratory and heart diseases, and says that illnesses resulting from them *are deemed to arise out of and in the course of employment in the absence of evidence to the contrary.* Instead of this phrase, the bill would apply the new standard described in the earlier paragraph to these diseases as well.

The bill specifies that this conditional presumption would apply to the medical benefits provided under Section 315 of the act. The bill also specifies that if an employee were eligible for any pension benefits, that eligibility would not prohibit the employee (or the dependents of that employee) from receiving benefits under Section 315 for the medical

expenses (or portion of medical expenses) that are not provided for by the pension program.

MCL 418.405

FISCAL IMPACT:

The bill would have no significant impact on the state or local governmental units with a full-time fire department. The Department of Energy, Labor, and Economic Growth has indicated that it would anticipate very few worker's compensation claims under the expanded provisions of the bill. Continuing law provides that firefighters (or their families) would have to first apply for whatever pension benefits are available, with the presumption of then making a workers compensation claim if ineligible for pension benefits. This provision, the department indicates, would tend to cover most situations.

Legislative Analyst: J. Hunault
Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.