



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

Paul Luzzi

Sub. S.B. 27

131st General Assembly
(As Passed by the General Assembly)

Sens. Patton, LaRose, Skindell, Hughes, Schiavoni, Tavares, Hottinger, Beagle, Jones, Brown, Bacon, Balderson, Burke, Cafaro, Eklund, Faber, Gentile, Hite, Lehner, Manning, Obhof, Oelslager, Sawyer, Thomas, Williams, Yuko

Reps. Bishoff, Kuhns, Anielski, Antonio, Ashford, Boccieri, Boggs, Boyd, Celebrezze, Cera, Clyde, Craig, Driehaus, Fedor, Grossman, Hagan, Henne, G. Johnson, Leland, Lepore-Hagan, Manning, M. O'Brien, S. O'Brien, Patterson, Pelanda, Phillips, Rezabek, Rogers, Ruhl, Sheehy, K. Smith, Strahorn, Sweeney, Sykes, Terhar, Rosenberger

Effective date: April 6, 2017

ACT SUMMARY

- Enacts the "Michael Louis Palumbo, Jr. Act."
- Provides that a firefighter who is disabled as a result of cancer under certain circumstances is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund (OP&F) to have incurred the cancer while performing official duties.
- Allows for the presumption to be rebutted in specified situations.
- Requires the Administrator of Workers' Compensation to prepare a report regarding presumed cancer claims arising from the presumption created by the act.

CONTENT AND OPERATION

Presumption of illness incurred while performing official duties

The act enacts the "Michael Louis Palumbo, Jr. Act."¹ It creates a presumption that a member of the Ohio Police and Fire Pension Fund (OP&F) who is a member of a

* This version updates the effective date.

¹ Section 5.

fire department (essentially, a full-time firefighter) and is disabled as a result of cancer incurred the cancer while performing official duties, if the member was exposed to an agent classified by the International Agency for Research on Cancer or its successor (IARC) as a Group 1 or 2A carcinogen. According to the IARC, the cancer agency of the World Health Organization, agents classified as Group 1 carcinogens are carcinogenic to humans and agents classified as Group 2A carcinogens are probably carcinogenic to humans.²

Firefighters must have been assigned to at least six years of hazardous duty as a firefighter for the presumption to apply.³ "Hazardous duty" means duty performed under circumstances in which an accident could result in serious injury or death.⁴

The act also creates the same presumption for firefighters in the Workers' Compensation Law. For the Workers' Compensation Law, the presumption is included in the list of occupational diseases that are compensable, and compensation for cancer under the presumption is payable only in the event of temporary total disability, permanent total disability, or death, in accordance with continuing law. The Workers' Compensation Law provision applies to paid and volunteer firefighters.⁵

Rebuttal of the presumption

The act provides that the presumption created by the act can be rebutted in any of the following situations:

- There is evidence that the firefighter incurred the type of cancer being alleged before becoming a member of the fire department.
- There is evidence that the firefighter's exposure, outside of the scope of the firefighter's official duties, to cigarettes, tobacco products, or other conditions presenting an extremely high risk for the development of the cancer alleged, was probably a significant factor in the cause or progression of the cancer.
- There is evidence that the firefighter was not exposed to an agent classified by the IARC as a Group 1 or 2A carcinogen.

² International Agency for Research on Cancer, *Agents Classified by the IARC Monographs*, <http://monographs.iarc.fr/ENG/Classification/>.

³ R.C. 742.38(D)(3)(b).

⁴ R.C. 742.38(D) and 4123.68(X), by reference to 5 Code of Federal Regulations 550.902.

⁵ R.C. 4123.68(X), with a conforming change in R.C. 4123.57(D).



- The firefighter is age 70 or older.⁶

Application

The presumption created by the act does not apply if it has been more than 20 years since the firefighter was last assigned to hazardous duty as a firefighter.⁷ The act applies only to applications for disability benefits filed on or after the act's effective date and to workers' compensation claims arising on or after that date.⁸

Report on presumed cancer claims

The act requires the Administrator of Workers' Compensation to prepare a report regarding presumed cancer claims arising from the presumption created by the act, including the following information:

- The number of approved claims;
- The number of disapproved claims;
- The number of active claims;
- The cost related to the claims.

The Administrator must submit the initial report by April 8, 2019, and an updated report every two years thereafter, to all of the following:

- The Speaker and the Minority Leader of the House;
- The President and Minority Leader of the Senate;
- The Ohio Fire Chiefs' Association or its successor;
- The Ohio Association of Professional Fire Fighters or its successor;
- The Ohio Municipal League or its successor.

The OP&F Board of Trustees must submit to the Administrator any data necessary for the report.⁹

⁶ R.C. 742.38(D)(3)(c) and 4123.68(X)(2).

⁷ R.C. 742.38(D)(3)(d) and 4123.68(X)(3).

⁸ Sections 3 and 4.

⁹ R.C. 742.38(E) and 4123.86.



HISTORY

ACTION	DATE
Introduced	02-09-15
Reported, S. Insurance	04-13-16
Passed Senate (32-1)	04-13-16
Reported, H. Insurance	12-06-16
Passed House (75-21)	12-07-16
Senate concurred in House amendments (31-1)	12-07-16

16-SB27-UPDATED-131.docx/ar

