



Ohio Legislative Service Commission

Bill Analysis

Nicholas A. Keller

Sub. S.B. 27

131st General Assembly
(As Passed by the Senate)

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

BILL SUMMARY

- Provides that a firefighter who is disabled as a result of specified types of cancer 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 his or her official duties.
- Allows for the presumption created in the bill to be rebutted upon the presentation of competent or affirmative evidence to the contrary.
- Allows, for the purposes of OP&F disability, for the bill's presumption to be rebutted if the cancer was revealed during the firefighter's entrance physical examination.
- Allows the presumption created by the bill to be rebutted upon the presentation of competent evidence that the firefighter was a substantial tobacco user in the ten years prior to the cancer diagnosis.
- Allows the presumption to be rebutted if the individual is 75 years of age or older.

CONTENT AND OPERATION

Presumption of illness incurred while performing official duties

The bill creates a presumption that a member of the Ohio Police and Fire Pension Fund (OP&F) who is a member of a fire department and who incurs and is disabled by the following types of cancer incurred the cancer while performing the member's official duties:

- Cancer of the lung, brain, kidney, bladder, rectum, stomach, skin, prostate, breast, cervix, or uterus;
- Non-Hodgkin's lymphoma;
- Leukemia;
- Multiple myeloma;
- Testicular or colorectal cancer.

Firefighters must have been assigned to at least three years of hazardous duty for the presumption to apply.¹ "Hazardous duty" means duty performed under circumstances in which an accident could result in serious injury or death.²

The bill also creates the same presumption for firefighters in the Workers' Compensation Law. The cancers listed above are included in the list of occupational diseases that are compensable under current Law.³

Rebuttal of the presumption

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

- The presentation of competent evidence, in the case of the OP&F, or affirmative evidence, in the case of workers' compensation, to the contrary of the presumption.⁴
- For OP&F, the presentation of any evidence of the cancer appeared on the physical examination passed by the member upon entry to the fire department.⁵
- The presentation of competent evidence that the firefighter was a substantial and consistent user of cigarettes or other tobacco products within ten years immediately preceding the date of diagnosis of the

¹ R.C. 742.38(D)(3)(b).

² R.C. 742.38(D) and 4123.68(X), by reference to 5 C.F.R. 550.902.

³ R.C. 4123.68(X), with a conforming change in R.C. 4123.57(D).

⁴ R.C. 742.38(D)(3)(c)(i) and 4123.68(X)(1).

⁵ R.C. 742.38(D)(3)(c)(i).



cancer, and that this use was a significant factor in the cause, aggravation, or progression of the cancer.⁶

- The firefighter is 75 years of age or older.⁷

Application

The bill applies only to applications for disability benefits filed on or after the bill's effective date and to workers' compensation claims arising on or after the bill's effective date.⁸

HISTORY

ACTION	DATE
Introduced	02-09-15
Reported, S. Insurance	04-13-16
Passed Senate (32-1)	04-13-16

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

⁷ R.C. 742.38(D)(3)(c)(iii) and 4123.68(X)(2)(b).

⁸ Sections 3 and 4 of the bill.

