



Ohio Legislative Service Commission

Bill Analysis

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H.B. 292

131st General Assembly
(As Introduced)

Reps. Hagan, Patmon, Bishoff, Hambley, Grossman, Leland, Terhar, Manning, Perales

BILL SUMMARY

- Creates a statutory presumption that a firefighter who is disabled as a result of specified types of cancer incurred the cancer while performing his or her official duties, for purposes of the laws governing workers' compensation and Ohio Police and Fire Pension Fund (OP&F) disability.
- Allows for the presumption created in the bill to be rebutted upon the presentation of evidence to the contrary.
- Specifies that in the contest of workers' compensation, the presumption applies to a volunteer firefighter only if the five years of hazardous duty constitutes firefighting duties and not emergency medical services.
- 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.
- Permits certain firefighter appointing authorities to require a physical examination of any applicant applying on or after the bill's effective date to include screening for the existence of the cancers listed in the bill.
- Requires the appointing authority of certain local entities to develop procedures to determine whether the physical examination of an applicant who applies to become a volunteer firefighter is to include the existence of the cancers listed in the bill.

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 breast, bone, lung, brain, kidney, bladder, skin, prostate, scrotum, testicle, cervix, ovary, or uterus;
- Gastrointestinal cancer, including cancers of the anus, colon, bile duct, esophagus, liver, pancreas, peritoneal cavity, rectum, small intestine, and stomach;
- Laryngeal, hypopharyngeal, nasopharyngeal, pharyngeal, or tracheal cancer;
- Hodgkin's or non-Hodgkin's lymphoma;
- Leukemia;
- Multiple myeloma;
- Mesothelioma;
- Soft tissue sarcoma.

Firefighters must have been assigned to at least five 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 However, the bill specifies that in the context of workers' compensation, the presumption applies to a volunteer firefighter only if the five years of hazardous duty constitutes firefighting duties and not

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).

emergency medical services (medical services performed by first responders, emergency medical technicians, and paramedics, including services performed before and during transport of a patient).⁴

Rebuttal of the presumption

The bill provides that the presumption created by the bill can be rebutted upon the presentation of competent, in the case of the OP&F, or affirmative evidence, in the case of workers' compensation, to the contrary of the presumption.⁵ The presumption can also be rebutted if any evidence of the cancer appeared on the physical examination passed by the member upon entry to the fire department.⁶ Note, however, that this second avenue of rebuttal applies only to OP&F.

Application

The presumption created by 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.⁷

Physical examination to test for certain cancers

Civil service positions

Ohio's current civil service laws require, before original civil service appointment as a firefighter, an applicant to be at least 18 years of age and pass a physical examination given by a health professional no more than 180 days before appointment.

The bill permits the civil service appointing authority to require a physical examination of any applicant applying on or after the bill's effective date to include screening for the existence of the cancers listed in the bill (see "**Presumption of illness incurred while performing official duties**"). If the applicant passes the physical examination, the examining health professional must certify that the applicant meets the physical requirements necessary for the position.⁸ A health professional is a person who holds a certificate or license in Ohio to practice medicine and surgery or

⁴ R.C. 4123.68(X)(2) and R.C. 4765.01, not in the bill.

⁵ R.C. 742.38(D)(3)(b) and 4123.68(X).

⁶ R.C. 742.38(D)(3)(b).

⁷ Sections 3 and 4 of the bill.

⁸ R.C. 124.42(B) and (C).



osteopathic medicine and surgery or to practice as a physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife.⁹

Local appointing authorities

The bill establishes similar requirements pertaining to applicants seeking appointment in the fire department of a township or municipal corporation or in a joint fire and ambulance district. These requirements apply to the board of trustees of a joint fire and ambulance district (joint between a township and a municipal corporation or joint between two or more townships or two or more municipal corporations), a board of township trustees, a city fire department, or the legislative authority of a village (collectively referred to as "local appointing authorities").¹⁰

The bill requires each applicant seeking appointment as a paid or volunteer firefighter by a local appointing authority to undergo a physical examination conducted by a health professional showing that the person meets the physical requirements necessary for the position. For an applicant who applies on or after the bill's effective date, the bill permits a local appointing authority to require the physical examination to include a screening for the cancers listed in the bill. The bill requires the local appointing authority to develop procedures to determine whether the physical examination of an applicant who applies to become a volunteer firefighter is to include the existence of the cancers listed in the bill.¹¹

The bill also specifies that if a municipal corporation has annexed township property and is offering employment to firefighters, the municipal corporation may require the physical examination of an applicant who applies after the bill's effective date to include screening for the cancers listed in the bill.¹²

Current law only requires physical examination of an applicant seeking appointment as a volunteer firefighter in a township or a village.¹³

⁹ R.C. 124.42(A), 505.375(G)(3), 505.38(A), 737.08(A), and 737.22(D).

¹⁰ R.C. Chapters 505. and 737.

¹¹ R.C. 505.375(D), 505.38(D) and (E), 737.08(E), and 737.22(C), with conforming changes in R.C. 505.374 and 4766.09.

¹² R.C. 709.012(B)(2).

¹³ R.C. 505.38(D)(1) and 737.22(C)(1).



HISTORY

ACTION

DATE

Introduced

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