



# Ohio Legislative Service Commission

## Bill Analysis

Kelly Bomba

### Sub. S.B. 27\*

131st General Assembly  
(As Reported by H. Insurance)

**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

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## BILL 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 his or her official duties.
- Allows for the presumption created in the bill 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 bill.

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## CONTENT AND OPERATION

### Presumption of illness incurred while performing official duties

The bill enacts the "Michael Louis Palumbo, Jr. Act."<sup>1</sup> 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 (essentially, a full-time firefighter) and is disabled as a result of cancer incurred the cancer while performing the member's official duties if the member was exposed to an agent classified by the International Agency for Research on Cancer or its successor agency (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

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\* This analysis was prepared before the report of the House Insurance Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

<sup>1</sup> Section 5.

carcinogens are carcinogenic to humans and agents classified as Group 2A carcinogens are probably carcinogenic to humans.<sup>2</sup>

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

The bill also creates the same presumption for firefighters in the Workers' Compensation Law. For purposes of the Workers' Compensation Law, the presumption is included in the list of occupational diseases that are compensable under continuing law, 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 or volunteer firefighters.<sup>5</sup>

### **Rebuttal of the presumption**

The bill provides that the presumption created by the bill 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.
- The firefighter is 70 years of age or older.<sup>6</sup>

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<sup>2</sup> International Agency for Research on Cancer, *Agents Classified by the IARC Monographs*, <http://monographs.iarc.fr/ENG/Classification/> (accessed December 6, 2016).

<sup>3</sup> R.C. 742.38(D)(3)(b).

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

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

<sup>6</sup> R.C. 742.38(D)(3)(c) and 4123.68(X)(2).



## Application

The presumption created by the bill does not apply if it has been more than 20 years since the firefighter was last assigned to hazardous duty as a firefighter.<sup>7</sup> 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.<sup>8</sup>

## Report on presumed cancer claims

The bill requires the Administrator of Workers' Compensation to prepare a report regarding presumed cancer claims arising from the presumption created by the bill, 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 bill requires the Administrator to submit the initial report not later than two years after the bill's effective date, and an updated report every two years thereafter, to all of the following:

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

Additionally, the bill requires the OP&F Board of Trustees to submit to the Administrator any data necessary for the report.<sup>9</sup>

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<sup>7</sup> R.C. 742.38(D)(3)(d) and 4123.68(X)(3).

<sup>8</sup> Sections 3 and 4.

<sup>9</sup> R.C. 4123.86 and 742.38(E).



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## HISTORY

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

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