

BILL ANALYSIS

Senate Research Center
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S.B. 1107
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DIGEST AND PURPOSE

Firefighters are exposed through their work to contagious diseases and toxic and carcinogenic substances. As proposed, S.B. 1107 provides a rebuttable presumption that the contraction of certain diseases, including tuberculosis and cancer, by a firefighter is in the course and scope of employment, thereby allowing firefighters to be compensated for the contraction of such diseases.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 419B, Government Code, by adding Sections 419.043, 419.044, and 419.045, as follows:

Sec. 419.043. CONTAGIOUS DISEASE. (a) Provides that this section and Sections 419.044 and 419.045 apply only to a firefighter employed by a political subdivision of the state, including a home-rule municipality, who: passed a physical examination on entering or during employment as a firefighter that did not reveal any evidence of the illness or disease for which reimbursement is sought under this chapter; and is included in the definition of fire protection personnel under Section 419.021.

(b) Provides that, regardless of any other law, a person certified under this subchapter who contracts tuberculosis is presumed to have contracted the disease during the course and scope of employment. Requires the employing political subdivision, unless the presumption is rebutted under Section 419.045 by clear and convincing evidence, to provide the salary and benefits the person would receive if employed by the political subdivision until the person's death and to reimburse the person for all medical expenses incurred by the person as a result of contracting tuberculosis. Provides that the benefits received under this section are instead of any benefits provided by Chapter 504 (Workers' Compensation Insurance Coverage for Employees of Political Subdivisions), Labor Code.

(c) Provides that, regardless of any other law, a firefighter who suffers from a disease or illness of the lungs or respiratory tract other than tuberculosis that results in total disability or death is presumed to have contracted the disease or illness from inhaling noxious fumes or poisonous gases during the course of the employment.

(d) Provides that, regardless of any other law, a firefighter who suffers from hypertension or other heart disease resulting in total or partial disability or in death is presumed to have contracted the hypertension or heart disease during the course of the employment.

Sec. 419.044. **CANCER.** (a) Provides that, regardless of any other law, a firefighter who suffers from cancer resulting in total disability or death and who has been employed as a firefighter for at least five years on the date by which the cancer should have been discovered is presumed to have contracted the cancer during the course of the employment.

(b) Provides that this section applies only if: the person regularly responded on the scene to fire-fighting calls during any part of the time the person was employed as a firefighter; the cancer is of a type that may result from exposure to heat, radiation, or a known or suspected carcinogen; and the cancer is of a type described by Subsection (c) or is associated with fire fighting under Subsection (d).

(c) Provides that this section applies to cancerous conditions affecting certain physiological systems.

(d) Provides that this section applies to any type of cancer recognized by the Texas Department of Health (department) as having a statistically significant correlation with fire fighting. Authorizes the department, when recognizing a correlation under this section, to rely on information and data published by the International Agency for Research on Cancer.

(e) Provides that this section applies to a former firefighter if the cancer is discovered on or before the fifth anniversary of the date of last employment as a firefighter. Entitles the person to reimbursement from the date the person last received regular compensation as a firefighter.

Sec. 419.045. **REBUTTABLE PRESUMPTION.** Provides that a presumption under Section 419.043 or 419.044 may be rebutted through a showing by a preponderance of the evidence that a risk factor, accident, or hazard unassociated with fire fighting caused the person's disease or illness, except that a presumption regarding tuberculosis may only be rebutted by clear and convincing evidence.

SECTION 2. Effective date: September 1, 2001.
Makes application of this Act prospective.