

MAINE STATE LEGISLATURE

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MAJORITY

L.D. 621

Date 4-28-09

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LABOR

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STATE OF MAINE

SENATE

124TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 235, L.D. 621, Bill, "An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 39-A MRSA §328-B is enacted to read:

§328-B. Cancer suffered by a firefighter

Cancer suffered by a firefighter is governed by this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cancer" means kidney cancer, non-Hodgkin's lymphoma, colon cancer, leukemia, brain cancer, bladder cancer, multiple myeloma, prostate cancer, testicular cancer or breast cancer.

B. "Employed" means to be employed as an active duty firefighter or to be an active member of a volunteer fire association with no compensation other than injury and death benefits.

C. "Firefighter" means a member of a municipal fire department or volunteer fire association whose duties include the extinguishment of fires or responding to other emergencies.

2. Presumption. If a firefighter who contracts cancer has met the requirements of subsections 3, 6 and 7, there is a rebuttable presumption that the firefighter contracted the cancer in the course of employment as a firefighter and as a result of that employment, that sufficient notice of the cancer has been given and that the disease was not occasioned by any willful act of the firefighter to cause the disease.

3. Medical tests. In order to be entitled to the presumption in subsection 2, during the time of employment as a firefighter, the firefighter must have undergone a standard, medically acceptable test for evidence of the cancer for which the presumption is sought

COMMITTEE AMENDMENT

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1 or evidence of the medical conditions derived from the disease, which test failed to
2 indicate the presence or condition of cancer.

3 **4. Liability if services performed for more than one employer.** If a firefighter
4 who contracts cancer was employed as a firefighter by more than one employer and
5 qualifies for the presumption under subsection 2, and that presumption has not been
6 rebutted, the employer and insurer at the time of the last substantial exposure to the risk
7 of the cancer are liable under this Part.

8 **5. Retired firefighter.** This section applies to a firefighter who is diagnosed with
9 cancer within 10 years of the firefighter's last active employment as a firefighter or prior
10 to attaining 70 years of age, whichever occurs first.

11 **6. Length of service.** In order to qualify for the presumption under subsection 2, the
12 firefighter must have been employed as a firefighter for 5 years and regularly responded
13 to firefighting or emergency calls.

14 **7. Written verification.** In order to qualify for the presumption under subsection 2,
15 a firefighter must sign a written affidavit declaring, to the best of the firefighter's
16 knowledge and belief, that the firefighter's diagnosed cancer is not prevalent among the
17 firefighter's blood-related parents, grandparents or siblings and that the firefighter has no
18 substantial lifetime exposures to carcinogens that are associated with the firefighter's
19 diagnosed cancer other than exposure through firefighting.'

20 **SUMMARY**

21 This amendment, which is the majority report of the committee, requires that, to be
22 eligible for workers' compensation benefits, in addition to the presumption established in
23 the bill, the firefighter must have been employed as a firefighter for a minimum of 5 years
24 and have regularly responded to firefighting or emergency calls. The amendment
25 changes the application of the presumption for retired firefighters who contract cancer
26 from within 20 years to within 10 years of last active employment or prior to 70 years of
27 age. The amendment also requires the firefighter to verify that the diagnosed cancer is
28 not prevalent in the firefighter's blood-related family and is not due to exposures to
29 carcinogens outside the firefighter's employment as a firefighter.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



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LD 621

LR 667(02)

An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

Local government costs - potential state mandate

State Mandates

Required Activity

Shifting the burden of proof that a municipal firefighter or volunteer firefighter contracted certain types of cancer as a result of employment as a firefighter from the claimant to the employer and/or the employer's insurer may represent an indirect modification of a municipal activity.

Unit Affected

Municipality

Local Cost

Significant statewide

The indirect modification of local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Unless General Fund appropriations are provided to fund at least 90% of the additional costs or a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement, municipalities may not be required to implement these changes.

Fiscal Detail and Notes

This legislation will increase costs to local governments in the form of both higher premiums for workers' compensation insurance and increased legal costs. The impact to individual municipalities can not be determined at this time and will depend on actual experience.