



Senate

General Assembly

File No. 100

January Session, 2023

Substitute Senate Bill No. 937

Senate, March 16, 2023

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PROVIDING WORKERS' COMPENSATION BENEFITS FOR CERTAIN CANCERS IN FIREFIGHTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-294j of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) For the purpose of adjudication of claims for payment of benefits
4 under the provisions of this chapter, a uniformed member of a paid
5 municipal or volunteer fire department, a regular member of a paid
6 municipal police department, a constable, as defined in section 31-294i,
7 or a member of a volunteer ambulance service shall be eligible for such
8 benefits for any disease arising out of and in the course of employment,
9 including, but not limited to, hepatitis, meningococcal meningitis,
10 tuberculosis, Kahler's Disease, non-Hodgkin's lymphoma, and prostate
11 or testicular cancer that results in death or temporary or permanent total
12 or partial disability.

13 (b) For purposes of this section, there shall be a rebuttable
14 presumption that the diagnosis of cancer of a uniformed member of a
15 paid municipal or volunteer fire department arose out of and in the
16 course of employment as a result of exposures particular to the duties
17 performed as a firefighter. Such presumption applies to any condition
18 of cancer affecting the brain, skin, skeletal system, digestive system,
19 endocrine system, respiratory system, lymphatic system, reproductive
20 system, urinary system or hematological system that results in the death
21 or temporary or permanent total or partial disability of such firefighter.
22 Such presumption may be rebutted by clear and convincing evidence
23 that:

24 (1) Upon entry into service, a physical examination of such firefighter
25 revealed evidence of the claimed cancer;

26 (2) Such firefighter failed to submit to annual physical examinations
27 subsequent to entry into service;

28 (3) Subsequent physical examinations of such firefighter revealed
29 evidence of, or a propensity for, the claimed cancer;

30 (4) Such firefighter used cigarettes, as defined in section 12-285, or
31 any other tobacco products, as defined in section 12-330a, during the
32 fifteen-year period prior to the diagnosis of the claimed cancer;

33 (5) At the time the claimed cancer is diagnosed or should have been
34 diagnosed, such firefighter was employed for less than five years as:

35 (A) An interior structural firefighter at a municipal, state or volunteer
36 fire department; or

37 (B) A local fire marshal, deputy fire marshal, fire investigator, fire
38 inspector or such other class of inspectors or investigator meeting the
39 minimum standards of qualification adopted pursuant to section 29-298;

40 (6) Such firefighter failed to use respiratory protection, as described
41 in 29 CFR 1910.134 of the Occupational Safety and Health Standards, or
42 other personal protective equipment, as described in 29 CFR 1910.134 of

43 the Occupational Safety and Health Standards in the course of such
44 employment; or

45 (7) Such claimed cancer is not known to result from the exposure to
46 heat, radiation or a known carcinogen as determined by the
47 International Agency for Research on Cancer or the National Toxicology
48 Program of the United States Department of Health and Human
49 Services.

50 (c) Any individual who is no longer actively employed or serving as
51 a firefighter and who would otherwise qualify for benefits under this
52 section may apply for benefits under the provisions of this chapter not
53 later than five years after the date such individual was employed or last
54 served as a firefighter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	31-294j

Statement of Legislative Commissioners:

In Subsec. (b)(6), "used" was changed to "use", for proper grammar.

LAB *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 24 \$	FY 25 \$
Various Municipalities	STATE MANDATE ¹ - Cost	Potential	Potential

Explanation

The bill results in a potential cost to municipalities beginning in FY 24, by creating a rebuttable presumption in workers' compensation law that firefighting performed by firefighters causes numerous types of cancer. To the extent more firefighters qualify for workers' compensation benefits due to particular cancer diagnoses, there will be a potential cost to municipalities.

There are approximately 26,800 firefighters² in the State of Connecticut.

¹ State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

² Data from the Connecticut State Firefighters Association for 2016/17.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of relevant workers' compensation claims.

Sources: Connecticut State Firefighters Association

OLR Bill Analysis**SB 937*****AN ACT PROVIDING WORKERS' COMPENSATION BENEFITS FOR CERTAIN CANCERS IN FIREFIGHTERS.*****SUMMARY**

This bill creates a rebuttable presumption in workers' compensation law that firefighting performed by uniformed paid municipal and volunteer firefighters causes numerous types of cancer. It makes those with the disease eligible for workers' compensation benefits unless the presumption is rebutted with clear and convincing evidence that the firefighter does not meet the bill's criteria.

As with any workers' compensation claim, to qualify for benefits, the disease must result in death or the temporary or permanent total or partial disability of the employee.

The bill also permits retired firefighters to apply for the benefits within five years of their retirement.

Workers' compensation law is separate from the existing Firefighter Cancer Relief Program, which is unchanged by the bill (see BACKGROUND).

EFFECTIVE DATE: October 1, 2023

PRESUMPTION AND ELIGIBLE TYPES OF CANCER

The bill creates a presumption that the cancer diagnosis of paid municipal or volunteer firefighters "arose out of and in the course of employment as a result of exposure particular to the duties performed as a firefighter." This presumption applies to any condition of cancer affecting the brain, skin, or any of the following systems: skeletal, digestive, endocrine, respiratory, lymphatic, reproductive, urinary, or

hematological.

GROUNDINGS TO REBUT THE PRESUMPTION

Under the bill, the presumption may be rebutted by clear and convincing evidence that:

1. upon entry into service, a physical examination of the firefighter revealed evidence of the claimed cancer;
2. the firefighter failed to submit to annual physical examinations after entry into service;
3. subsequent physical examinations revealed evidence of, or a propensity for, the claimed cancer;
4. the firefighter used cigarettes or other tobacco products, as defined in state law, during the 15-year period before the cancer diagnosis;
5. when the cancer was diagnosed, or should have been diagnosed, the firefighter was employed for less than five years as (a) an interior structural firefighter at a municipal, state, or volunteer fire department or (b) a local fire marshal, deputy fire marshal, fire investigator, fire inspector, or other class of inspector or investigator meeting the minimum state qualification standards;
6. the firefighter failed to use respiratory protection or other personal protective equipment as described in federal OSHA regulations (29 C.F.R. 1910.134); or
7. the claimed cancer is not known to result from exposure to heat, radiation, or a known carcinogen as determined by the International Agency for Research on Cancer or the federal Department of Health and Human Services' National Toxicology Program.

RETIRED FIREFIGHTERS

The bill specifies that anyone no longer actively employed or serving as a firefighter who would otherwise qualify for benefits under the bill can apply for benefits within five years after the person was employed or last served as a firefighter.

BACKGROUND

Firefighter Cancer Relief Program

Under the Firefighter Cancer Relief Program, firefighters diagnosed with cancer may qualify for wage replacement benefits if they meet program criteria. The relief program law specifies that (1) an award from the fund does not create a presumption that the cancer is due to working as a firefighter and (2) a firefighter cannot simultaneously receive wage replacement benefits from the fund and from workers' compensation. It further states that receiving benefits from the relief fund does not prohibit a firefighter from being awarded workers' compensations benefits.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 3 (02/28/2023)