



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [S.B. 94 of the 128th G.A.](#)

Date: February 9, 2010

Status: As Introduced

Sponsor: Sen. Patton

Local Impact Statement Procedure Required: Yes

Contents: Creates a legal presumption that cancer and other diseases in firefighters, emergency responders, and policemen were contracted in the line of duty

State Fiscal Highlights

- The bill creates a presumption that certain cancers and diseases contracted by firefighters, policemen, and emergency medical service workers are directly related to their duties. As a result, the State Insurance Fund under the Bureau of Workers' Compensation would likely pay out additional workers' compensation benefits for claims filed under this change.
- In addition to increased claims costs, there could also be an increase in administrative expenses for processing additional lost time and medical claims that could arise under the bill. These costs would be paid from the Workers' Compensation Fund (Fund 7023). The source of revenue for this fund is administrative assessments that are charged to employers in addition to their premium payments.
- The Ohio Police and Fire Pension Fund may incur an increase in its liability for disability benefits paid to police officers, firefighters, and emergency medical services employees who meet the criteria outlined in the bill.
- The additional benefit provided under the bill could increase workers' compensation costs for the Adjutant General, which employs approximately 95 firefighters.

Local Fiscal Highlights

- Local government entities could be affected under the bill, as local government workers' compensation premium rates are directly linked to employee claim activity. As such, the cost of any cancer claim made under the extended benefit of the bill would be born directly by the claimant's employer or the employer's group. Data provided by BWC indicates that the average cost of those claims provided for in the bill is roughly \$124,000.

Detailed Fiscal Analysis

Overview

The bill creates a legal presumption, for the purposes of determining workers' compensation and Ohio Police and Fire Pension Fund (OP&F) benefits, that firefighters, emergency medical services (EMS) workers, and police officers who are diagnosed with certain types of cancer and other diseases contracted their conditions in the line of duty. These include:

- Cancer of the lung, brain, kidney, bladder, rectum, stomach, skin, or prostate;
- Non-Hodgkin's lymphoma;
- Leukemia;
- Multiple myeloma; and
- Testicular or colorectal cancer.

Overall, the bill would likely create an increase in liabilities for both OP&F and for the Bureau of Workers' Compensation (BWC). The extent of the additional costs would depend on the extent of additional claims, in terms of both volume and severity. BWC might also adjust premiums to reflect these new costs. If so, political subdivisions that employ police officers, firefighters, and EMS workers would incur additional premium costs. The bill could also affect the workers' compensation premiums of the Adjutant General, which employs roughly 95 firefighters.

Local government workers' compensation premiums

Under the bill, it would be presumed that firefighters, emergency medical technicians, and police officers who are diagnosed with certain types of cancer and other diseases contracted their conditions in the line of duty. With regard to workers' compensation, the presumption would not apply if affirmative evidence was presented to show that the disease was not contracted in the line of duty. Also, firefighters and EMS employees would be required to have completed at least three years of hazard duty before being eligible for the expanded benefit. Police officers, however, would not be subject to this requirement.

Although current law does not exclude cancer from workers' compensation coverage, the presumption would likely increase the amount of cancer-related benefits charged to the claims of local government employers. Local government workers' compensation premiums are determined according to retrospective rating, in which the current year's premiums are directly linked to actual benefit costs incurred in the previous year. Local governments can be either group or individually retrospectively rated. As such, the cost of any cancer claim made under the extended benefit of the bill would be borne directly by the claimant's employer or the employer's group. According to data provided by BWC, from CY 2004-CY 2009, seven cancer claims were allowed under current law; 11 additional claims would have qualified for benefits

under the bill. Of those claims that were allowed, the average cost per claim was approximately \$124,000.

Table 1 provides basic workers' compensation data for calendar year (CY) 2009 related to those employers that could be affected under the bill.

Table 1: Affected Employer Data, CY 2009			
Employer Type	Employers	Premiums and Assessments Collected	Cancer Claims Paid
Cities	204	\$67,696,099	\$332,395
Special Purpose Districts	220	\$161,331,105	\$307,940
Counties	49	\$26,028,057	\$0
Townships	1,329	\$17,339,211	\$0
Villages	585	\$8,994,415	\$0

Table 2 shows the number of employees that could be affected under the bill by employee type. It should be noted that the number of firefighters and emergency responders reflects the number of each type of certification. Because many firefighters receive emergency medical certification, there is probably a significant overlap in the two categories. That is, the actual number of firefighters and emergency responders is likely substantially lower than the sum of the two figures below.

Table 2: Affected Employees Data, FY 2009	
Employer Type	Employees Covered
Firefighters	41,192
Police Officers	33,366
EMTs	40,751

Finally, BWC could experience a minimal increase in administrative costs related to the implementation of the presumptive language in the bill. Such costs are paid out of the Workers' Compensation Fund (Fund 7023), which is used for BWC's core operating expenses related to processing claims for workers' compensation and medical benefits.

Ohio Police and Fire Pension (OP&F) Fund

Under the increased benefit proposed by the bill, OP&F is likely to incur an increase in its liability for disability benefit payments to its firefighter and police officer members and dependents. Under current law, a member with over five years of service qualifies for benefits of up to 60% of annual pay for disabilities not caused or induced by job-related duties, including cancer or heart problems; members totally or permanently disabled in the line of duty receive 72% of their annual pay. The bill presumes that members of the fund who are disabled by the diseases listed above, and who meet certain employment assignment criteria, have been disabled in the line of

duty. The bill's presumption would not apply if evidence of such diseases was revealed by a physical examination passed by the individual on entry into the department.

Using data accumulated from 1999 to 2008, OP&F stated that 15%, or 38 of 246 off-duty disability retirement claims, would have been redefined as duty claims if the bill had been in effect during this time. A February 2008 analysis prepared by Buck Consultants, OP&F's actuarial consultants in response to H.B. 431 of the 127th General Assembly, which provided for the same benefit as under this bill, indicated that the total cost of these changes would be approximately \$300,000 to \$500,000 annually. It should be noted, however, that H.B. 431 pertained only to firefighters and EMS employees, not police officers. Thus, the fiscal impact of the bill on OP&F could be greater.

Adjutant General

The bill could have an impact on the Adjutant General (ADJ), which employs firefighters at its various bases and armories throughout the state of Ohio. ADJ employs approximately 95 firefighters and could see an increase in BWC premiums under the bill.