

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 716**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: JUNE 6, 2018

**SUMMARY**

**Synopsis:** “Thomas P. Canzanella Twenty First Century First Responders Protection Act”; concerns workers’ compensation for public safety workers.

**Type of Impact:** Indeterminate recurring expenditure increase.

**Agencies Affected:** All State and local public entities which utilize public safety workers.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Expenditure Increase</b>	Indeterminate
<b>Local Expenditure Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will most likely increase annual expenditures by State and local public entities that utilize public safety workers.
- The bill will also most likely result in annual increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may result in increased claims for workers’ compensation benefits, and the requirement for public safety employers to maintain additional records.
- The OLS cannot quantify the cost of this bill to the State and local units due to uncertainty on the number of individuals who may submit claims each year and the costs of those claims. Additionally, the OLS does not have sufficient data on the costs to establish the programs and to maintain the additional records required pursuant to this bill.
- The OLS notes that “public safety worker” includes, but is not limited to, a member, employee, or officer of a paid, partially-paid, or volunteer fire or police department, force, company or district, including the State Police, a Community Emergency Response Team approved by the New Jersey Office of Emergency Management, or a correctional facility, or a basic or advanced medical technician of a first aid or rescue squad, or any other nurse, or basic or advanced medical technician responding to a catastrophic incident and directly involved and in contact with the public during such an incident, either as a volunteer,

member of a Community Emergency Response Team or employed or directed by a health care facility. This definition of public safety worker is similar to that which is already included in the workers' compensation law (R.S.34:15-1 et seq.), but not identical.

## **BILL DESCRIPTION**

The bill creates a rebuttable presumption of workers' compensation coverage for public safety workers in certain circumstances. The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

The bill affirms that if, in the course of employment, a public safety worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any worker, including a worker who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the worker's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances in which the workers deployed to a facility or location where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, due to the extremely high likelihood that such a firefighter will be repeatedly exposed to smoke and other carcinogens, the bill creates a rebuttable presumption that if the firefighter suffers an injury, illness or death which may be caused by cancer, that the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will most likely increase annual expenditures by State and local public entities that employ or otherwise utilize public safety workers as defined by the bill. The bill will most likely result in increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may cause increased claims for workers' compensation benefits and the requirement for public safety employers to maintain additional records.

The bill provides public safety workers, in certain cases, who incur an injury, disability or death, with a presumption that the injury, disability or death they experience is related to work place activities and is compensable through workers' compensation benefits. This is a shift in the current system in which the worker has the burden of proving that the injury, disability or death is related to work place activities. It is possible that this shift will result in the filing of additional claims for workers' compensation benefits. The OLS notes that individuals may be more likely to apply for workers' compensation benefits, particularly when the root cause of an injury or illness is at question, if there is an understanding that they do not have to bear the burden of proving the connection between their workplace activities and their injury, disability or death. However, it should be noted that these injuries, illnesses and deaths under the system for workers' compensation benefits, and shifting the burden of proof, may have little or no fiscal impact. It is not possible to quantify with any certainty the number of cases and the cost of the cases that may be filed due to the change proposed pursuant to this bill.

The OLS does not have access to independent actuarial information to analyze and determine the impact of the possibility of increased claims on workers' compensation premium calculations and total costs of claims. However, since a majority of public entities are self-insured for workers' compensation, any increases to the costs of workers' compensation will be funded directly by these entities.

Section 6 of the bill establishes that any injury, illness or death, including cancer and damage to reproductive organs, incurred by a public safety worker, which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance will be presumed to be compensated through workers' compensation, if the worker demonstrates exposure to a known carcinogen, cancer-causing radiation or radioactive substances in the course of employment. Furthermore, section 6 of the bill requires that the employer must maintain records of all public safety workers in its employ who were deployed to an area in which fire, explosions, spills or other events occurred which could result in exposure to carcinogens. The record keeping requirement is for all public entities and it is intended to assist the employer and the worker to demonstrate a connection, or lack thereof, for any injury, illness, or death for any cancer or damage to reproductive organs. The tracking of these incidents of exposure may be costly and time consuming. A public safety employer will need to ensure that the records are comprehensive and thorough in order to track exposure for workers due to the possibility of future benefit claims. The OLS cannot determine with any certainty the cost of this record keeping and impact on future workers' compensation claims.

Section 7 of the bill establishes the presumption for any firefighter, with more than seven years of service, who suffers injury, illness or death caused by cancer that this injury, illness or death is an occupational disease and the burden of proof is borne by the employer for these firefighters. Firefighters with more than seven years of experience will not have to demonstrate exposure to a known carcinogen, cancer-causing radiation or a radioactive substance. The OLS cannot determine with any certainty the impact of this change on future workers' compensation claims.

In summary, although the OLS cannot quantify the cost of this legislation to the State and local public entities, it is possible that there will be an increase in the cost of workers' compensation claims to self-insured entities and in workers' compensation premiums for those

entities that purchase coverage. These increases will be due to the potentially larger number of individuals filing for workers' compensation coverage in instances in which the root cause of illness, injury or death is uncertain. There may also be an increase in costs related to record keeping requirements for public safety employers pursuant to section 6 of the bill.

*Section: Commerce, Labor and Industry*

*Analyst: Juan C. Rodriguez*  
*Associate Fiscal Analyst*

*Approved: Frank W. Haines III*  
*Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).