

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 716

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably Senate Bill No. 716, with committee amendments.

As amended, this bill creates a rebuttable presumption of workers' compensation coverage for public safety workers and other employees in certain circumstances.

The bill affirms that if a public safety worker can demonstrate that in the course of his or her employment, the 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 employee, including an employee 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 employee'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 of the workers deployed 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, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, 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.

The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

As amended and reported, this bill is identical to Assembly Bill No. 1741, as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee proposes to amend the bill to:

(1) change the definition of “known carcinogen” a substance which may cause cancer, including any substance identified as a carcinogen by the State Department of Health or by the International Agency for Research on Cancer to a substance that is known, suspected, or generally accepted by the scientific community to cause cancer in humans, as identified by the State Department of Health or by the International Agency for Research on Cancer;

(2) make the definition of “public safety worker” inclusive of only the types of employees enumerated in the bill;

(3) clarify that the public worker must be able to demonstrate that he or she has been exposed to a disease or toxin in the course of his or her employment;

(4) change the burden on the employer to rebut the presumption of compensability for injury or illness of public safety workers and firefighters from clear and convincing proof to a preponderance of the evidence;

(5) provide that any injury, illness or death of a firefighter who has completed at least seven years of service which may be caused by cancer, including leukemia, is presumed to be compensable regardless of whether the firefighter is in active service or is no longer in active service of a paid, part-paid, or volunteer fire department at the time of the injury, illness or death, provided that the firefighter is not more than 75 years of age or has not been out of active service for more than 20 years;

(6) provide a presumption of compensability of any injury, illness or death of a public safety worker which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance, including cancer and damage to reproductive organs, only if

the worker demonstrates the injury, illness or death has manifested during his or her employment as a public safety worker; and

(7) Provide that the Commissioner of the Department of Labor and Workforce Development is required to maintain records of the claims and costs incurred under the bill and issue an annual report to the public beginning 18 months after the effective date of the bill.

FISCAL IMPACT:

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.