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H.B. No. 471

A BILL TO BE ENTITLED

AN ACT

relating to the entitlement to and claims for benefits for certain
first responders and other employees related to illness and injury.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Local Government Code, is
amended by adding Chapter 177A to read as follows:

CHAPTER 177A. ILLNESS OR INJURY LEAVE OF ABSENCE FOR FIREFIGHTERS,
POLICE OFFICERS, AND EMERGENCY MEDICAL SERVICES PERSONNEL OF
POLITICAL SUBDIVISION

Sec. 177A.001. DEFINITIONS. In this chapter:

(1) "Emergency medical services personnel" means a
person described by Section 773.003, Health and Safety Code, who is
a paid employee of a political subdivision.

(2) "Firefighter" means a firefighter who is a
permanent, paid employee of the fire department of a political
subdivision. The term includes the chief of the department. The
term does not include a volunteer firefighter.

(3) "Police officer" means a paid employee who is
full-time, holds an officer license issued under Chapter 1701,
Occupations Code, and regularly serves in a professional law
enforcement capacity in the police department of a political
subdivision. The term includes the chief of the department.

Sec. 177A.002. EFFECT ON LABOR AGREEMENTS. Notwithstanding
any other law, including Section 142.067, 142.117, 143.207,

1 143.307, 143.361, 147.004, or 174.005, a collective bargaining,
2 meet and confer, or other similar agreement that provides a benefit
3 for an ill or injured employee must provide a benefit that, at a
4 minimum, complies with this chapter.

5 Sec. 177A.003. LINE OF DUTY ILLNESS OR INJURY LEAVE OF
6 ABSENCE. (a) A political subdivision shall provide to a
7 firefighter, police officer, or emergency medical services
8 personnel a leave of absence for an illness or injury related to the
9 person's line of duty. The leave is with full pay for a period
10 commensurate with the nature of the line of duty illness or injury.
11 If necessary, the political subdivision shall continue the leave
12 for at least one year.

13 (b) At the end of the one-year period, the political
14 subdivision's governing body may extend the leave of absence under
15 Subsection (a) at full or reduced pay. If the firefighter's, police
16 officer's, or emergency medical services personnel's leave is not
17 extended or the person's salary is reduced below 60 percent of the
18 person's regular monthly salary and the person is a member of a
19 pension fund, the person may retire on pension until able to return
20 to duty.

21 (c) If the firefighter, police officer, or emergency
22 medical services personnel is not a member of a retirement system
23 with disability retirement benefits and is temporarily disabled by
24 a line of duty injury or illness and if the one-year period and any
25 extensions granted by the governing body have expired, the person
26 may use accumulated sick leave, vacation time, and other accrued
27 benefits before the person is placed on temporary leave.

1 (d) If the one-year period and any extensions granted by the
2 governing body have expired, the firefighter, police officer, or
3 emergency medical services personnel is placed on temporary leave.

4 Sec. 177A.004. OTHER ILLNESS OR INJURY LEAVE OF ABSENCE. A
5 firefighter, police officer, or emergency medical services
6 personnel who is temporarily disabled by an injury or illness that
7 is not related to the person's line of duty may:

8 (1) use accumulated sick leave, vacation time, and
9 other accrued benefits before the person is placed on temporary
10 leave; or

11 (2) have another firefighter, police officer, or
12 emergency medical services personnel volunteer do the person's work
13 while the person is temporarily disabled by the injury or illness.

14 Sec. 177A.005. RETURN TO DUTY. (a) If able, a firefighter,
15 police officer, or emergency medical services personnel may return
16 to light duty while recovering from a temporary disability. If
17 medically necessary, the light duty assignment may continue for at
18 least one year.

19 (b) After recovery from a temporary disability, a
20 firefighter, police officer, or emergency medical services
21 personnel shall be reinstated at the same rank and with the same
22 seniority the person had before going on temporary leave. Another
23 firefighter, police officer, or emergency medical services
24 personnel may voluntarily do the work of an injured firefighter,
25 police officer, or emergency medical services personnel until the
26 person returns to duty.

27 SECTION 2. Section [415.021\(c-2\)](#), Labor Code, is amended to

1 read as follows:

2 (c-2) In determining whether to assess an administrative
3 penalty involving a claim in which the insurance carrier provided
4 notice under Section 409.021(a-3), the commissioner shall consider
5 whether:

6 (1) the employee cooperated with the insurance
7 carrier's investigation of the claim, including whether the
8 employee promptly and accurately responded to an inquiry by the
9 insurance carrier regarding the use of cigarettes, e-cigarettes, or
10 tobacco products by the employee or a person regularly residing
11 with the employee as described by Section 607.052, Government Code;

12 (1-a) a person who regularly resided with the employee
13 as described by Section 607.052, Government Code, cooperated with
14 the insurance carrier's investigation into, and promptly and
15 accurately responded to an inquiry by the insurance carrier
16 regarding, the person's use of cigarettes, e-cigarettes, or tobacco
17 products as described by that section;

18 (2) the employee timely authorized access to the
19 applicable medical records before the insurance carrier's deadline
20 to:

21 (A) begin payment of benefits; or

22 (B) notify the division and the employee of the
23 insurance carrier's refusal to pay benefits; and

24 (3) the insurance carrier conducted an investigation
25 of the claim, applied the statutory presumptions under Subchapter
26 B, Chapter 607, Government Code, and expedited medical benefits
27 under Section 504.055.

1 SECTION 3. Section 504.051(a), Labor Code, is amended to
2 read as follows:

3 (a) Benefits provided under this chapter shall be offset:

4 (1) to the extent applicable, by any amount for
5 incapacity received as provided by:

6 (A) Chapter 143 or 177A, Local Government Code;
7 or

8 (B) any other statute in effect on June 19, 1975,
9 that provides for the payment for incapacity to work because of
10 injury on the job that is also covered by this chapter; and

11 (2) by any amount paid under Article III, Section 52e,
12 of the Texas Constitution, as added in 1967.

13 SECTION 4. Section 607.052, Government Code, is amended by
14 amending Subsection (b) and adding Subsection (i) to read as
15 follows:

16 (b) A presumption under this subchapter does not apply:

17 (1) to a determination of a survivor's eligibility for
18 benefits under Chapter 615;

19 (2) in a cause of action brought in a state or federal
20 court except for judicial review of a proceeding in which there has
21 been a grant or denial of employment-related benefits or
22 compensation;

23 (3) to a determination regarding benefits or
24 compensation under a life or disability insurance policy purchased
25 by or on behalf of the detention officer, custodial officer,
26 firefighter, peace officer, or emergency medical technician that
27 provides coverage in addition to any benefits or compensation

1 required by law; or

2 (4) if the disease or illness for which benefits or
3 compensation is sought is known to be caused by the use of tobacco
4 and:

5 (A) the firefighter, peace officer, or emergency
6 medical technician has regularly used cigarettes, e-cigarettes, or
7 another tobacco product in the seven years preceding the diagnosis
8 of the disease or illness [~~is or has been a user of tobacco~~]; or

9 (B) a person regularly residing with the
10 firefighter, peace officer, or emergency medical technician has,
11 while regularly residing with the firefighter, peace officer, or
12 emergency medical technician, regularly used cigarettes,
13 e-cigarettes, or another tobacco product during the period
14 described by Paragraph (A) [~~the firefighter's, peace officer's, or~~
15 ~~emergency medical technician's spouse has, during the marriage,~~
16 ~~been a user of tobacco that is consumed through smoking~~].

17 (i) In this section, "cigarette," "e-cigarette," and
18 "tobacco product" have the meanings assigned by Section 161.081,
19 Health and Safety Code.

20 SECTION 5. Section 607.056, Government Code, is amended to
21 read as follows:

22 Sec. 607.056. ACUTE MYOCARDIAL INFARCTION OR STROKE. (a) A
23 firefighter, peace officer, or emergency medical technician who
24 suffers an acute myocardial infarction or stroke resulting in
25 disability or death is presumed to have suffered the disability or
26 death during the course and scope of employment as a firefighter,
27 peace officer, or emergency medical technician if:

1 (1) while on duty, the firefighter, peace officer, or
2 emergency medical technician:

3 (A) was engaged in a situation that involved
4 ~~[nonroutine]~~ stressful or strenuous physical activity involving
5 fire suppression, rescue, hazardous material response, emergency
6 medical services, law enforcement, or other emergency response
7 activity; or

8 (B) participated in a training exercise that
9 involved ~~[nonroutine]~~ stressful or strenuous physical activity;
10 and

11 (2) the acute myocardial infarction or stroke occurred
12 not later than eight hours after the end of a shift in which ~~[while]~~
13 the firefighter, peace officer, or emergency medical technician was
14 engaging in the activity described under Subdivision (1).

15 (b) For purposes of this section, "~~[nonroutine]~~ stressful
16 or strenuous physical activity" does not include clerical,
17 administrative, or nonmanual activities.

18 SECTION 6. Section 177A.002, Local Government Code, as
19 added by this Act, applies only to a collective bargaining, meet and
20 confer, or other similar agreement entered into on or after the
21 effective date of this Act.

22 SECTION 7. Section [504.051](#)(a), Labor Code, as amended by
23 this Act, applies only to a claim for workers' compensation
24 benefits filed on or after the effective date of this Act. A claim
25 filed before that date is governed by the law as it existed on the
26 date the claim was filed, and the former law is continued in effect
27 for that purpose.

1 SECTION 8. Sections 607.052(b) and 607.056, Government
2 Code, as amended by this Act, apply only to a claim for benefits or
3 compensation brought on or after the effective date of this Act. A
4 claim for benefits or compensation brought before the effective
5 date of this Act is governed by the law in effect on the date the
6 claim was made, and the former law is continued in effect for that
7 purpose.

8 SECTION 9. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2023.