

By: Springer

S.B. No. 799

A BILL TO BE ENTITLED

AN ACT

relating to 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 COUNTY AND MUNICIPAL FIREFIGHTERS, POLICE OFFICERS, AND EMERGENCY MEDICAL SERVICES PERSONNEL

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 county or municipality.

(2) "Firefighter" means a firefighter who is a permanent, paid employee of the fire department of a county or municipality. 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 county or municipality. 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 county or municipality 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 county or municipality shall continue the leave
12 for at least one year.

13 (b) At the end of the one-year period, the county's or
14 municipality'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 retirement system with disability retirement benefits, the person
20 is considered eligible to receive the disability retirement
21 benefits until able to return to duty.

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

1 benefits before the person is placed on temporary leave.

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

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

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

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

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

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

1 person returns to duty.

2 SECTION 2. Section 408.161, Labor Code, is amended by
3 amending Subsection (a) and adding Subsections (b-1) and (e) to
4 read as follows:

5 (a) Lifetime income benefits are paid until the death of the
6 employee for:

7 (1) total and permanent loss of sight in both eyes;

8 (2) loss of both feet at or above the ankle;

9 (3) loss of both hands at or above the wrist;

10 (4) loss of one foot at or above the ankle and the loss
11 of one hand at or above the wrist;

12 (5) an injury to the spine that results in permanent
13 and complete paralysis of both arms, both legs, or one arm and one
14 leg;

15 (6) a physically traumatic injury to the brain
16 resulting in a permanent major neurocognitive disorder or a
17 psychotic disorder [~~incurable insanity or imbecility~~]; [~~or~~]

18 (7) third degree burns that cover at least 40 percent
19 of the body and require grafting, or third degree burns covering the
20 majority of:

21 (A) [either] both hands;

22 (B) both feet;

23 (C) one hand and one foot; or

24 (D) one hand or foot and the face; or

25 (8) a serious bodily injury sustained by the employee
26 in the course and scope of the employee's employment or volunteer
27 service as a first responder that permanently prevents the employee

1 from performing any gainful work.

2 (b-1) In this section:

3 (1) "First responder" has the meaning assigned by
4 Section 421.095, Government Code.

5 (2) "Serious bodily injury" has the meaning assigned
6 by Section 1.07, Penal Code.

7 (e) Adjudication of lifetime income benefits for a first
8 responder may proceed in the manner prescribed for an expedited
9 proceeding under Section 504.055.

10 SECTION 3. Chapter 408, Labor Code, is amended by adding
11 Subchapter I-1 to read as follows:

12 SUBCHAPTER I-1. CRITICAL ILLNESS BENEFITS

13 Sec. 408.171. DEFINITIONS. In this subchapter,
14 "firefighter" and "peace officer" have the meanings assigned by
15 Section 607.051, Government Code.

16 Sec. 408.172. CRITICAL ILLNESS BENEFITS FOR CERTAIN PEACE
17 OFFICERS AND FIREFIGHTERS. (a) A person is eligible for critical
18 illness benefits under this section if the person:

19 (1) retired from employment as a firefighter or peace
20 officer on or after January 1, 2024; and

21 (2) not later than the fifth anniversary of the date of
22 the person's retirement:

23 (A) is diagnosed with a type of cancer listed in
24 Section 607.055(b), Government Code; or

25 (B) suffers an acute myocardial infarction or
26 stroke.

27 (b) The amount of critical illness benefits to which a

1 person is entitled under this section is an amount equal to the
2 greater of:

3 (1) the person's annual salary in the final year of the
4 person's employment as a firefighter or peace officer; or

5 (2) \$150,000.

6 (c) Beginning January 1 of each 10-year period beginning
7 January 1, 2034, the commissioner of insurance shall adjust the
8 amount of critical illness benefits to which a person may be
9 entitled under Subsection (b)(2) for a retirement occurring on or
10 after that date, by the percentage change, if any, in the Consumer
11 Price Index for all urban consumers published by the United States
12 Bureau of Labor Statistics of the United States Department of Labor
13 for the preceding 10-year period.

14 (d) An insurance carrier shall pay critical illness
15 benefits required under this section to a person in a lump sum.

16 SECTION 4. Section 607.052(b), Government Code, is amended
17 to read as follows:

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

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

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

25 (3) to a determination regarding benefits or
26 compensation under a life or disability insurance policy purchased
27 by or on behalf of the detention officer, custodial officer,

1 firefighter, peace officer, or emergency medical technician that
2 provides coverage in addition to any benefits or compensation
3 required by law; or

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

7 (A) the firefighter, peace officer, or emergency
8 medical technician has used a tobacco product an average of four or
9 more times per week during any six-month period in the five years
10 preceding the diagnosis of the disease or illness [~~is or has been a~~
11 ~~user of tobacco~~]; or

12 (B) the firefighter's, peace officer's, or
13 emergency medical technician's spouse has, during the marriage,
14 used a tobacco product that is consumed through smoking an average
15 of four or more times per week during any six-month period in the
16 five years preceding the diagnosis of the disease or illness [~~been a~~
17 ~~user of tobacco that is consumed through smoking~~].

18 SECTION 5. Section 607.056, Government Code, is amended to
19 read as follows:

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

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

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

5 (B) participated in a training exercise that
6 involved [~~nonroutine~~] stressful or strenuous physical activity;
7 and

8 (2) the acute myocardial infarction or stroke occurred
9 not later than 24 hours after the end of a shift in which [~~while~~] the
10 firefighter, peace officer, or emergency medical technician was
11 engaging in the activity described under Subdivision (1).

12 (b) For purposes of this section, "~~nonroutine~~ stressful
13 or strenuous physical activity" does not include clerical,
14 administrative, or nonmanual activities.

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

19 SECTION 7. Section 408.161, Labor Code, as amended by this
20 Act, applies only to a claim for lifetime income benefits based on a
21 compensable injury that occurs on or after the effective date of
22 this Act. A claim based on a compensable injury that occurs before
23 the effective date of this Act is governed by the law in effect on
24 the date the compensable injury occurred, and the former law is
25 continued in effect for that purpose.

26 SECTION 8. Sections 607.052(b) and 607.056, Government
27 Code, as amended by this Act, apply only to a claim for benefits or

1 compensation brought on or after the effective date of this Act. A
2 claim for benefits or compensation brought before the effective
3 date of this Act is governed by the law in effect on the date the
4 claim was made, and the former law is continued in effect for that
5 purpose.

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