

BILL ANALYSIS

C.S.H.B. 3162
By: Capelo
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Due to the nature of their duties, first responders are subject to repeat exposures to certain disease, usually without the first responder's knowledge of the exposure. The first responder is unable to link the contracting of a disease or illness to a single incident, and consequently the person must personally bear full financial responsibility of treatment of the disease or illness.

Currently the law provides that public safety personnel who contract certain occupational disease may receive benefits if the person can prove the disease was caused by an exposure in the line of duty, and if a specific exposure is documented in a timely manner. The proposed bill provides a rebuttable presumption for tuberculosis or other lung disease or illness, cancer, hepatitis "C" and smallpox. The rebuttable presumption is for exposure in the line of duty only if 1) upon entering service, the person received a medical examination that failed to reveal the presence of the illness or disease for which benefits or compensation is being sought, 2) the person has served as a first responder for at least five years preceding the claim and 3) if there is a positive correlation between the disease or illness and the person's duties as a first responder. Habitual users of tobacco are excluded from coverage under certain conditions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill amends Chapter 607, Government Code by adding Subchapter B which addresses benefits for first responders who suffer from selected diseases or illnesses acquired during employment. The bill defines the meaning of first responder to include certain public safety employees, fire protection personnel, certified volunteer fire fighters, peace officer, fire fighter and certified emergency medical technicians. The bill provides a rebuttable presumption for tuberculosis or other lung disease or illness, cancer, hepatitis "C" and smallpox. The rebuttable presumption created in the bill relates to exposure in the line of duty only if 1) upon entering service, the person received a medical examination that failed to reveal the presence of the illness or disease for which benefits or compensation is being sought, 2) the person has served as a first responder for at least five years preceding the claim and 3) if there is a positive correlation between the disease or illness and the person's duties as a first responder. Habitual users of tobacco are excluded from coverage under certain conditions.

The presumption established in the bill applies to determining whether the first responder's disability or death resulted from a disease or illness contracted in the course and scope of employment for the purpose of providing benefits or compensation under a designated benefit plan. The bill allows the presumption to be rebutted upon showing by a preponderance of evidence that the illness or disease was not associated with the individual's service as a first responder. The bills provides that any benefits or compensation under this chapter will be paid from the last date on which the person received regular compensation as a first responder.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3162 amends the original bill by adding sections 607.053(e), 607.056 and additional language to Section 607.051(3). C.S.H.B 3162 includes the State's Firemen's and Fire Marshall's Association of Texas as a volunteer fire fighter certifying agency within the first responders definition. In addition the substitute includes Nurse's (RNs and LVNs) as first responders by providing a rebuttable presumption that any disability or death suffered as a result of an immunization is within the provider's course and scope of employment. Furthermore, a rebuttable presumption for first responders who suffer from a rheumatic and autoimmune disease.