

## **BILL ANALYSIS**

C.S.H.B. 1388  
By: Bohac  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, certain compensation benefits are provided to firefighters and emergency medical technicians stricken with certain medical conditions. Generally, these medical conditions are presumed by law to have been caused during the course and scope of employment, but in cases of acute myocardial infarction or stroke, a firefighter or emergency medical technician must show that he or she was engaged in certain activity while performing tasks associated with the duties of employment. Further, a governmental entity may rebut an application for benefits if it can be shown that a factor not associated with the individual's employment caused the disease or illness. Interested parties assert that many applications for such benefits are being denied with little or no evidence provided that a factor not associated with the individual's employment caused the illness, resulting in the firefighter or emergency medical technician having to appeal this decision through a costly and lengthy administrative process that can often surpass the duration of the illness.

C.S.H.B. 1388 seeks to facilitate the provision of benefits to these firefighters and emergency medical technicians in their time of need.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **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**

C.S.H.B. 1388 amends the Government Code to expand the conditions establishing that a firefighter or emergency medical technician, while on duty, who suffers an acute myocardial infarction or stroke resulting in disability or death is presumed to have suffered the disability or death during the course and scope of employment by removing the specification that the firefighter or emergency medical technician was engaging in specified activity while on duty. The bill removes provisions specifying the activity that triggers the presumption as participation in a training exercise involving nonroutine stressful or strenuous physical activity or engaging in a situation involving nonroutine stressful or strenuous physical activity involving fire suppression, rescue, hazardous material response, emergency medical services, or other emergency response activity.

C.S.H.B. 1388 requires a rebuttal of certain presumptions regarding diseases or illnesses suffered by firefighters and emergency medical technicians to include a statement by the person offering the rebuttal that describes, in detail, the evidence that the person reviewed before making the

determination that a cause not associated with the individual's service as a firefighter or emergency medical technician caused the individual's disease or illness.

C.S.H.B. 1388 amends the Labor Code to require an insurance carrier's notice of refusal to pay benefits under the Texas Workers' Compensation Act in response to a claim for compensation resulting from an emergency medical technician or firefighter's disability or death that is presumed to have occurred during the course and scope of employment to describe, in detail, the evidence the carrier reviewed before making the determination not to pay benefits.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1388 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 607.056, Government Code, is amended.

SECTION 2. Section 607.058, Government Code, is amended.

**No equivalent provision.**

SECTION 3. The changes in law made by this Act apply to a claim for benefits or compensation brought on or after the effective date of this Act. A claim for

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Section 409.022, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) In this subsection, the terms "emergency medical technician" and "firefighter" have the meanings assigned by Section 607.051, Government Code. In addition to the other requirements of this section, if an insurance carrier's notice of refusal to pay benefits under Section 409.021 is sent in response to a claim for compensation resulting from an emergency medical technician's or a firefighter's disability or death for which a presumption is established under Subchapter B, Chapter 607, Government Code, the notice must describe, in detail, the evidence the carrier reviewed before making the determination not to pay benefits.

SECTION 4. Same as introduced version.

benefits or compensation brought before that date is covered by the law in effect on the date the claim was made, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 5. Same as introduced version.