88R104 MP/RDS-F

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

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

(b)  At the end of the one-year period, the county's or municipality's governing body may extend the leave of absence under Subsection (a) at full or reduced pay. If the firefighter's, police officer's, or emergency medical services personnel's leave is not extended or the person's salary is reduced below 60 percent of the person's regular monthly salary and the person is a member of a retirement system with disability retirement benefits, the person is considered eligible to receive the disability retirement benefits until able to return to duty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A)  [~~either~~] both hands;

(B)  both feet;

(C)  one hand and one foot; or

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

(8)  a serious bodily injury sustained by the employee in the course and scope of the employee's employment or volunteer service as a first responder that permanently prevents the employee from performing any gainful work.

(b-1)  In this section:

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

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

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

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

SUBCHAPTER I-1. CRITICAL ILLNESS BENEFITS

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

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

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

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

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

(B)  suffers an acute myocardial infarction or stroke.

(b)  The amount of critical illness benefits to which a person is entitled under this section is an amount equal to the greater of:

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

(2)  $150,000.

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

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

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

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

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

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

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

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

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

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

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

Sec. 607.056.  ACUTE MYOCARDIAL INFARCTION OR STROKE. (a) A firefighter, peace officer, or emergency medical technician 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 as a firefighter, peace officer, or emergency medical technician if:

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

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

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

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

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

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

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

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

SECTION 9.  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, 2023.