



House of Representatives

File No. 729

General Assembly

February Session, 2008

(Reprint of File No. 302)

Substitute House Bill No. 5629
As Amended by House Amendment Schedule
"A"

Approved by the Legislative Commissioner
April 24, 2008

**AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE
FOR FIREFIGHTERS AND POLICE OFFICERS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2009*) For the purpose of
2 adjudication of claims for payment of benefits under the provisions of
3 chapter 568 of the general statutes to a uniformed member of a paid
4 municipal fire department or a regular member of a paid municipal
5 police department or constable who began such employment on or
6 after July 1, 1996, any condition or impairment of health caused by a
7 cardiac emergency occurring to such member on or after the effective
8 date of this section, while such member is in training for or engaged in
9 fire duty at the site of an accident or fire, or other public safety
10 operation within the scope of such member's employment for such
11 member's municipal employer that results in death or temporary or
12 permanent total or partial disability, shall be presumed to have been
13 suffered in the line of duty and within the scope of such member's
14 employment, unless the contrary is shown by a preponderance of the
15 evidence, provided such member successfully passed a physical

16 examination on entry into service conducted by a licensed physician
17 designated by such department which examination failed to reveal any
18 evidence of such condition. For the purposes of this section, "cardiac
19 emergency" means cardiac arrest or myocardial infarction, and
20 "constable" means any municipal law enforcement officer who is
21 authorized to make arrests and has completed Police Officer Standards
22 and Training Council certification pursuant to section 7-294a of the
23 general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	New section

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 09 \$	FY 10 \$
All Municipalities	STATE MANDATE - Cost	Significant	Significant

Explanation

The bill establishes a rebuttable presumption under the workers' compensation law for paid municipal police and firefighters and constables hired after July 1, 1996, who are on duty and suffer a cardiac emergency.

The bill creates a presumption that a cardiac emergency that occurs while a paid municipal firefighter, police officer or constable is in training for, or engaged in, fire duty at the site of an accident or fire or other public safety operation for his or her municipal employer will be presumed to be suffered in the line of duty and is compensable under the Workers' Compensation Act. It applies to those hired after July 1, 1996, and only in cases where the cardiac emergency results in lost work time due to temporary or permanent total or partial disability or death.

There are approximately 4,135 paid municipal firefighters in the state and 7,976 certified municipal police officers. This bill would impact at least 2,500 firefighters and police officers and constables hired after July 1, 1996, along with all future hires.

It is anticipated that this bill will increase the number of claims filed

under CGS 7-433c.¹ To the extent that filing a claim under 7-433c increases the likelihood of an award—because the burden of proof has shifted to the employer to refute the claim—there will be increased costs to municipalities. These costs may be significant as a single cardiac claim may have a total incurred value of \$500,000 - \$1 million.

House “A” strikes the original bill and its associated fiscal impact, thus becoming the bill with the above referenced fiscal impact.

¹ As a result of a hearing there were 308 police and fire heart and hypertension claims identified as injuries under from CGS 7-433b and 7-433c from July 1, 1996 - June 30, 2007 (11 years).

OLR Bill Analysis**sHB 5629 (as amended by House "A")******AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR FIREFIGHTERS AND POLICE OFFICERS.*****SUMMARY:**

This bill establishes a rebuttable presumption under workers' compensation law for municipal firefighters, police, and constables hired after July 1, 1996 who suffer a cardiac emergency while on duty after July 1, 2009.

To be covered by the bill, the cardiac emergency must result in lost work time due to total or partial incapacity or death. The presumption that the ailment is due to the occupation is rebuttable, meaning it is presumed to be job-related unless a preponderance of evidence shows it is not. Under current law, such an ailment is compensable, but the burden of proof is on the employee to demonstrate it is job-related.

*House Amendment "A" removes the language creating a rebuttable presumption for three communicable diseases and changes elements of the cardiac emergency presumption by, among other things: (1) adding municipal constables to the presumption, (2) excluding myocardial ischemia and arrhythmia leading to heart block from the definition of cardiac emergency, (3) changing the evidence necessary to rebut the presumption from "competent evidence" to a "preponderance of the evidence," and (4) changing the effective date from October 1, 2008 to July 1, 2009.

EFFECTIVE DATE: July 1, 2009

CARDIAC EMERGENCY

The bill creates a presumption that a cardiac emergency that occurs while a paid municipal firefighter, police officer, or constable is in training for, or engaged in, fire duty at the site of an accident or fire or other public safety operation was suffered in the line of duty and is compensable under workers' compensation. The employee must be acting within the scope of his or her employment for the municipal employer at the time. It applies (1) to those hired after July 1, 1996, (2) only in cases where the cardiac emergency results in lost work time due to temporary or permanent total or partial disability or death, and (3) to cardiac emergencies that take place after July 1, 2009 (the bill's effective date).

The bill defines cardiac emergency as cardiac arrest or myocardial infarction.

The employee must have previously passed a physical that revealed no evidence of cardiac emergency. Under current law, any firefighter or police officer hired after July 1, 1996 must prove a cardiac emergency (or any other type of heart disease) was caused by his work and not due to other causes. (By law, municipal police officers and firefighters hired before to July 1, 1996 and out of work due to heart or hypertension-related illness are given benefits equivalent to workers' compensation benefits without having to demonstrate that the ailment is job-related).

Under the bill, the presumption can be overcome if a preponderance of the evidence shows that the cardiac emergency was not contracted through firefighting or police work.

CONSTABLES

The bill defines constable as any municipal law enforcement officer who is authorized to make arrests and has completed Police Officer Standards and Training Council certification as defined in state law.

BACKGROUND

Volunteer Firefighters and Workers' Compensation

By law, volunteer firefighters and emergency rescue workers are treated as employees, for workers compensation purposes, of the town where they volunteer. It also provides them with a presumption under workers' compensation that any hypertension or heart disease resulting in death or temporary or permanent total or partial disability is presumed to be suffered in the line of duty if the member is in training or engaged in volunteer fire duty or ambulance service (CGS § 7-314a (a) & (d)).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 0 (03/11/2008)

Appropriations Committee

Joint Favorable

Yea 35 Nay 15 (04/15/2008)