



# House of Representatives

General Assembly

**File No. 44**

February Session, 2016

House Bill No. 5262

*House of Representatives, March 15, 2016*

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR CURRENT AND FORMER UNIFORMED MEMBERS OF PAID OR VOLUNTEER FIRE DEPARTMENTS.***

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

1 Section 1. Section 31-294j of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) For the purpose of adjudication of claims for payment of benefits  
4 under the provisions of this chapter, a uniformed member of a paid  
5 [municipal] or volunteer fire department, a regular member of a paid  
6 [municipal] police department, a constable, as defined in section 31-  
7 294i, or a member of a volunteer ambulance service shall be eligible for  
8 such benefits for any disease arising out of and in the course of  
9 employment, including, but not limited to, hepatitis, meningococcal  
10 meningitis [,] or tuberculosis [, Kahler's Disease, non-Hodgkin's  
11 lymphoma, and prostate or testicular cancer] that results in death or  
12 temporary or permanent total or partial disability.

13        (b) (1) Notwithstanding any provisions of subsection (a) of this  
14 section, for the purpose of adjudication of claims for payment of  
15 benefits under the provisions of this chapter, a uniformed member of a  
16 paid or volunteer fire department shall be eligible for such benefits for  
17 the following types of cancers arising out of and in the course of  
18 employment: Kahler's Disease, non-Hodgkin's lymphoma, or any  
19 condition of cancer affecting the brain, skin, skeletal system, digestive  
20 system, endocrine system, respiratory system, lymphatic system,  
21 reproductive system, urinary system or hematological system that  
22 results in death, or temporary or permanent total or partial disability.  
23 Such cancer shall be presumed to have been suffered in the line of duty  
24 as a result of the inhalation, absorption or ingestion of noxious fumes  
25 or poisonous gases, unless the contrary be shown by a preponderance  
26 of the evidence, provided (A) such uniformed member successfully  
27 passed a physical examination upon entry into such service, or  
28 subsequent to entry, as the case may be, that failed to reveal any  
29 evidence of such cancer, (B) such uniformed member has worked for  
30 not less than five years at a fire department at the time such cancer is  
31 discovered, or should have been discovered, and (C) such cancer is one  
32 that is known to result from exposure to heat, radiation or a known  
33 carcinogen as determined by the International Agency for Research on  
34 Cancer or the National Toxicology Program of the United States  
35 Department of Health and Human Services.

36        (2) Any individual, who is no longer actively serving as a uniformed  
37 member of a paid or volunteer fire department but who otherwise  
38 would be eligible for such benefits pursuant to the provisions of  
39 subdivision (1) of this subsection, may apply for such benefits not  
40 more than five years from the date such individual last served with  
41 such paid or volunteer fire department.

42        (3) Any uniformed member of a paid or volunteer fire department  
43 or individual applying for benefits pursuant to subdivision (1) or (2) of  
44 this subsection may be required to submit to annual physical  
45 examinations as a condition of receiving such benefits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	31-294j

**LAB**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 17 \$</b>	<b>FY 18 \$</b>
Various State Agencies	Various Funds-Cost	See Below	See Below

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 17 \$</b>	<b>FY 18 \$</b>
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

**Explanation**

The bill may result in a cost to the state's workers' compensation program and to municipalities by creating a rebuttable presumption that certain types of cancer/conditions enumerated in the bill, which present in paid and volunteer firefighters and retirees, are work related and therefore compensable under workers' compensation. In general, volunteer firefighters are treated as employees of the municipality in which they serve. However, under CGS 7-314a(f), a volunteer firefighter who performs fire duties under the direction of the State Forest Fire Warden is considered a state employee for the purposes of workers' compensation.<sup>1</sup> In addition, the state currently employs 68 paid firefighters in its universities and larger agencies. The cost to the state and municipalities will depend on (1) the frequency of claims filed and (2) the severity of the claim (e.g. the extent of medical treatment and lost wage benefits), which are highly variable. In

<sup>1</sup> For municipalities operating solely with a volunteer fire department, the state is a secondary responder. The State Forest Fire Warden has approximately 20 firefighters to support and direct municipalities in the event they are called in to assist.

addition, the bill does not specify all types of cancer compensable under the bill. Kahler's Disease and non-Hodgkin's lymphoma are the only two cancers explicitly identified. In 2014, there were 70,800 new cases (4.3% of all new cancers) of Kahlers' Disease and 24,050 new cases of non-Hodgkin's lymphoma (1.4% of all new cancers) nationally.<sup>2</sup> Research estimates the average annual net cost of initial cancer treatment is approximately \$57,319. The average annual net cost of ongoing treatment is approximately \$11,697.<sup>3</sup> Cost estimates vary by (1) type of cancer, (2) when the individual is diagnosed, (3) age and overall health, and (4) any other presenting symptoms. Of the state's approximately 26,650 firefighters, 22,225 are volunteer (or 83%).<sup>4</sup>

There will be a cost to municipalities determined by (1) the frequency of claims filed and (2) the severity of the claim (e.g. the extent of medical treatment and lost wage benefits), which are highly variable. The cost to fully insured municipalities will be reflected in premiums after October 1, 2016.<sup>5</sup>

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to (1) frequency of claims filed, (2) severity, and (3) changes in premiums (for fully insured municipalities).

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<sup>2</sup> Source: National Institute of Health, National Cancer Institute: Surveillance, Epidemiology, and End Results Program. ([www.cancer.gov](http://www.cancer.gov))

<sup>3</sup> The annual initial treatment costs range from \$5,047 to \$138,300 and ongoing costs range from \$915 to \$11,697. The costs are net of any member cost sharing. (Source: Mariotto, A., Yabroff, K.R., Shao, Y., Feuer, E., and Brown, Martin (2011). *Projections of the Cost of Cancer Care in the United States: 2010 - 2020*; Oxford University Press. )

<sup>4</sup>Source: Connecticut State Fire Fighters' Association, members as of 2014.

<sup>5</sup>There are currently 32 towns and cities in Connecticut who are self-insured and therefore pay the cost of claims incurred.

**OLR Bill Analysis****HB 5262*****AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR CURRENT AND FORMER UNIFORMED MEMBERS OF PAID OR VOLUNTEER FIRE DEPARTMENTS.*****SUMMARY:**

This bill creates a rebuttable presumption that the firefighting performed by volunteer, municipal, and state firefighters causes numerous types of cancer. Thus it makes those with the disease eligible for workers' compensation benefits unless a preponderance of the evidence shows that something else caused the disease.

As with any workers' compensation claim, to qualify for payment, the disease must result in the employee's or volunteer's death or temporary or permanent total or partial disability.

The bill also permits retired firefighters to apply for the benefits within five years of their retirement.

It also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016

**ELIGIBLE TYPES OF CANCER**

The bill requires the following types of cancer to be presumed to have been suffered in the line of duty as a result of the inhalation, absorption, or ingestion of noxious fumes or poisonous gases, unless the contrary is shown by a preponderance of the evidence:

1. Kahler's Disease;
2. non-Hodgkin's lymphoma; and
3. conditions of cancer affecting the brain, skin, skeletal system,

digestive system, endocrine system, respiratory system, lymphatic system, reproductive system, urinary system or hematological system.

Preponderance of evidence means the evidence on one side of the question outweighs the evidence on the other side. It does not mean beyond a reasonable doubt, which is a higher standard.

### **QUALIFYING FOR THE PRESUMPTION**

Firefighters qualify for the presumption if the following conditions are met:

1. they passed a physical examination upon entry into such service, or subsequent to entry, that failed to reveal any evidence of such disease;
2. they worked or volunteered for at least five years at a fire department at the time such disease is discovered, or should have been discovered; and
3. the disease is one that is known to result from exposure to heat, radiation, or a known carcinogen as determined by the International Agency for Research on Cancer or the National Toxicology Program of the U.S. Department of Health and Human Services.

### **ANNUAL PHYSICALS**

The bill specifies that any current or retired firefighter who qualifies for benefits under the bill may be required to submit to annual physical examinations as a condition of receiving the benefits.

### **BACKGROUND**

#### ***Related Bill***

sHB 5075 (File 3), favorably reported by the Labor Committee, requires the state to create a firefighters' cancer disability insurance benefit program that covers some of the same cancers.

### **COMMITTEE ACTION**

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Labor and Public Employees Committee

Joint Favorable

Yea 11    Nay 2    (03/01/2016)