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Short Title: First Responders' Benefits/COVID MH Funds.

(Public)

Sponsors:

Referred to:

May 20, 2020

AN ACT (1) CREATING A PRESUMPTION THAT CERTAIN CANCERS ARE OCCUPATIONAL DISEASES FOR FIREFIGHTERS EMPLOYED BY UNITS OF LOCAL GOVERNMENT THAT ARE COVERED BY THE WORKERS' COMPENSATION ACT; (2) EXPANDING THE LIST OF CANCERS COVERED AS OCCUPATIONAL DISEASES FOR FIREFIGHTERS' DEATH BENEFITS; AND (3) ESTABLISHING A SPECIAL SEPARATION ALLOWANCE FOR STATE AND LOCAL FIREFIGHTERS AND RESCUE SQUAD WORKERS; AND (4) FUNDING BEHAVIORAL HEALTH AND CRISIS SERVICES IN RESPONSE TO THE CORONAVIRUS PANDEMIC.

The General Assembly of North Carolina enacts:

PART I. CERTAIN CANCERS PRESUMED OCCUPATIONAL DISEASES OF FIREFIGHTERS

SECTION 1.1 G.S. 97-53 reads as rewritten:

"§ 97-53. Occupational diseases ~~enumerated; when due to exposure to chemicals.~~enumerated.

(a) Occupational Diseases Due to Exposure to Chemicals. – The following diseases and conditions only shall be deemed to be occupational diseases within the meaning of this Article:

...

(6) Lead ~~poisoning. Provided poisoning if the employee shall have been was~~ exposed to the hazard of lead poisoning for at least 30 days in the preceding ~~12-months' period; and, provided further, only 12-month period.~~ Only the employer in whose employment such employee was last injuriously exposed shall be liable.

...

Occupational diseases caused by chemicals shall be deemed to be due to exposure of an employee to the chemicals herein mentioned only when as a part of the employment such employee is exposed to such chemicals in such form and quantity, and used with such frequency as to cause the occupational disease mentioned in connection with such chemicals.

(b) Occupational Diseases of Firefighters. – Any condition or impairment of health caused by any of the following types of cancers shall be deemed to be occupational diseases of firefighters within the meaning of this Article:

(1) Esophageal.

(2) Intestinal.



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- (3) Rectal.
- (4) Testicular.
- (5) Brain.
- (6) Non-Hodgkin's lymphoma.
- (7) Multiple myeloma.
- (8) Mesothelioma.
- (9) Oral cavity."

SECTION 1.2. Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"§ 97-53.1. Compensability of firefighter occupational diseases.

(a) Findings. – The General Assembly finds that:

- (1) Firefighting is a particularly hazardous occupation that requires firefighters to work under constantly changing and often unstable environments.
- (2) Firefighters are routinely exposed to hazardous agents such as carbon monoxide, carcinogens, particulate matter, and a broad array of other toxic chemicals generated from the smoke of burning materials.
- (3) Firefighters as a class face an increased risk of certain cancers as a result of their duties and responsibilities toward the general public.

(b) Intent. – Recognizing that firefighting is a hazardous occupation that is essential to protecting the personal safety of the citizens of this State, it is in the interest of the public and the welfare of those who perform firefighting activities to ensure that firefighters are adequately compensated for injuries, illnesses, and deaths that are causally related to their firefighting activities. Therefore, it is the intent of the General Assembly to presume that the diseases specified in G.S. 97-53(b) are occupationally related to firefighting for the purpose of determining eligibility for compensation under the Workers' Compensation Act.

(c) Definitions. – The following definitions apply in this section:

- (1) Disability. – Incapacity because of an occupational disease described in G.S. 97-53(b) to earn the wages that the firefighter was receiving at the time of manifestation of the occupational disease.
- (2) Firefighter. – A paid, partially paid, or volunteer member of a fire department of a unit of local government.

(d) Presumed Eligibility. – A firefighter shall be presumed eligible for compensation for occupational disease under this Article if either of the following sets of conditions is met:

- (1) The firefighter was required to submit to a physical examination upon entering the service of the unit of local government as a firefighter, the examination failed to reveal any evidence of a firefighter occupational disease described in G.S. 97-53(b), and the firefighter has completed at least five years of service as a firefighter for the unit of local government.
- (2) The firefighter was not required to submit to a physical examination upon entering the service of the unit of local government as a firefighter and, at the time of disability by an occupational disease described in G.S. 97-53(b), the firefighter has completed at least five years of continuous service immediately preceding January 1, 2017, as a firefighter for the unit of local government.

(e) Burden of Rebuttal. – In the case of a firefighter occupational disease described in G.S. 97-53(b), the unit of local government has the burden of proving, by a preponderance of competent evidence, that the condition was caused by some means other than the firefighter's occupation in order to disqualify the firefighter from receiving compensation for occupational disease pursuant to this section.

(f) Applicability. – This section applies to firefighters of units of local government only."

SECTION 1.3. This Part is effective when it becomes law and applies to claims for workers' compensation benefits filed on or after that date.

PART II. CANCERS COVERED AS OCCUPATIONAL DISEASES FOR FIREFIGHTERS' DEATH BENEFITS

SECTION 2.1. G.S. 143-166.2 reads as rewritten:

"§ 143-166.2. Definitions.

The following definitions apply in this Article:

...

(6) Killed in the line of duty. – This term shall apply to all of the following deaths:

...

e. When the death of a firefighter occurs as a direct and proximate result of any of the following cancers that are occupationally related to firefighting, that firefighter is presumed to have been killed in the line of duty:

1. Mesothelioma.
2. Testicular cancer.
3. ~~Intestinal cancer.~~ Cancer of the small intestine.
4. Esophageal cancer.
5. Non-Hodgkin's lymphoma.
6. Brain and other nervous system cancer.
7. Multiple myeloma.

...."

SECTION 2.2. This Part is effective when it becomes law and applies to firefighters killed in the line of duty on or after that date.

PART III. SPECIAL SEPARATION ALLOWANCE FOR STATE AND LOCAL FIREFIGHTERS AND RESCUE SQUAD WORKERS.

SECTION 3.1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 12L.

"Special Separation Allowances for State and Local Firefighters and Rescue Squad Workers.

"§ 143-166.90. Special separation allowances for State firefighters and rescue squad workers.

(a) The following definitions apply in this section:

- (1) Creditable service. -- The service for which credit is allowed under the retirement system of which the firefighter or rescue squad worker is a member, provided that at least fifty percent (50%) of the service is as a firefighter or rescue squad worker.
- (2) Firefighter. -- A full-time paid employee of any State department, agency, or institution actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.
- (3) Rescue squad worker. -- A full-time paid employee of any State department, agency, or institution who meets the definition of "emergency medical services personnel" under G.S. 131E-155.

(b) Every firefighter or rescue squad worker who qualifies under this section shall receive, beginning in the month in which the firefighter or rescue squad worker retires on a basic service retirement under the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the firefighter or rescue squad worker for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the firefighter or rescue squad worker shall meet all of the following criteria:

- (1) The firefighter or rescue squad worker has either (i) completed 30 or more years of creditable service or (ii) attained 60 years of age and completed 25 or more years of creditable service.
- (2) The firefighter or rescue squad worker has not attained 62 years of age.
- (3) The firefighter or rescue squad worker has completed at least five years of continuous service, rendered on or after July 1, 2019, as a firefighter or rescue squad worker immediately preceding a service retirement. Any break in the continuous service required by this subdivision because of disability retirement or disability salary continuation benefits shall not adversely affect a firefighter's or rescue squad worker's qualification to receive the allowance, provided the firefighter or rescue squad worker returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.
- (c) Payment to a retired firefighter or rescue squad worker under the provisions of this section shall cease upon the earlier of the following:
- (1) The death of the firefighter or rescue squad worker.
- (2) The last day of the month in which the firefighter or rescue squad worker attains 62 years of age.
- (3) The first day of reemployment by any State department, agency, or institution, except that this subdivision does not apply to a firefighter or rescue squad worker returning to State employment in a position exempt from the North Carolina Human Resources Act in an agency other than the agency from which that firefighter or rescue squad worker retired.
- (d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by the General Assembly for employees of the State or retired employees of the State.
- (e) The head of each State department, agency, or institution shall determine the eligibility of employees for the benefits provided under this section.
- (f) The Director of the Budget may authorize the transfer of funds within the budgets of each State department, agency, or institution necessary to carry out the purposes of this section. These funds shall be taken from those appropriated to the department, agency, or institution for salaries and related fringe benefits.
- (g) The head of each State department, agency, or institution shall make the payments set forth in subsection (b) of this section to those persons certified under subsection (e) of this section from funds available in subsection (f) of this section.
- "§ 143-166.92. Special separation allowances for local firefighters and rescue squad workers.**
- (a) The following definitions apply in this section:
- (1) "Creditable service" means the service for which credit is allowed under the retirement system of which the firefighter or rescue squad worker is a member, provided that at least fifty percent (50%) of the service is as a firefighter or rescue squad worker.
- (2) "Firefighter" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees' Retirement System, or an equivalent locally sponsored retirement plan, and maintains a fire department certified by the North Carolina Department of Insurance or a County Fire Marshal's Office and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.

(3) "Rescue squad worker" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees' Retirement System and maintains a rescue squad or emergency medical services team certified by the North Carolina Department of Insurance or the Department of Health and Human Services and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the alleviation of human suffering and assistance to persons who are in difficulty, who are injured, or who become suddenly ill, by providing proper and efficient care or emergency medical services.

(b) Every firefighter or rescue squad worker who qualifies under this section shall receive an annual separation allowance beginning in the month in which the firefighter or rescue squad worker retires on a basic service retirement under the provisions of G.S. 128-27(a) or a locally sponsored retirement plan. The annual separation allowance shall be equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the firefighter or rescue squad worker for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the firefighter or rescue squad worker shall meet all of the following criteria:

- (1) The firefighter or rescue squad worker has either (i) completed 30 or more years of creditable service or (ii) attained 60 years of age and completed 25 or more years of creditable service.
- (2) The firefighter or rescue squad worker has not attained 62 years of age.
- (3) The firefighter or rescue squad worker has completed at least five years of continuous service, rendered on or after July 1, 2019, as a firefighter or rescue squad worker immediately preceding a service retirement. Any break in the continuous service required by this subdivision because of disability retirement or disability salary continuation benefits shall not adversely affect a firefighter's or rescue squad worker's qualification to receive the allowance, provided the firefighter or rescue squad worker returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

(c) Payment to a retired firefighter or rescue squad worker under the provisions of this section shall cease upon the earlier of the following:

- (1) The death of the firefighter or rescue squad worker.
- (2) The last day of the month in which the firefighter or rescue squad worker attains 62 years of age.
- (3) The first day of reemployment by a local government employer in any capacity.

Notwithstanding the provisions of subdivision (3) of this subsection, a local government employer may employ retired firefighters and rescue squad workers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System or an equivalent locally sponsored retirement plan, and doing so shall not cause payment to cease to those firefighters and rescue squad workers under the provisions of this section.

(d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.

(e) The governing body of each local employer shall determine the eligibility of employees for the benefits provided under this section.

(f) The governing body of each local employer shall make the payments set forth in subsection (b) of this section to those persons certified under subsection (e) of this section from funds available."

SECTION 3.2. This Part is effective when it becomes law and applies to firefighters and rescue squad workers retiring on or after July 1, 2024, with at least five years of continuous service that was rendered on or after July 1, 2019.

PART IV. FUND BEHAVIORAL HEALTH AND CRISIS SERVICES IN RESPONSE TO THE COVID-19 PANDEMIC

SECTION 4.1. The State Controller shall transfer the sum of fifty million dollars (\$50,000,000) in nonrecurring funds for the 2020-2021 fiscal year from the Coronavirus Relief Reserve established in Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established in Section 2.2 of that same act (Coronavirus Relief Fund).

SECTION 4.2. There is appropriated from the Coronavirus Relief Fund to the Office of State Budget and Management (OSBM) the sum of fifty million dollars (\$50,000,000) in nonrecurring funds for the 2020-2021 fiscal year, to allocate to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS), for distribution to the local management entities/managed care organizations (LME/MCOs) to fund behavioral health and crisis services in response to the COVID-19 pandemic. The DMH/DD/SAS shall determine how to distribute these funds among the LME/MCOs.

SECTION 4.3. The requirements and limitations set forth in Part I of S.L. 2020-4 apply to the funds appropriated in this Part. The OSBM shall include the funds transferred and appropriated in this section in the report required under Section 1.7 of S.L. 2020-4.

SECTION 4.4. This Part becomes effective July 1, 2020.

PART V. EFFECTIVE DATE

SECTION 5.1. Except as otherwise provided, this act is effective when it becomes law.