

2022 Regular Session

HOUSE BILL NO. 854

BY REPRESENTATIVES STAGNI, ADAMS, BOYD, BRYANT, ROBBY CARTER, CORMIER, DEVILLIER, DUPLESSIS, EMERSON, FISHER, FREEMAN, GLOVER, HARRIS, HORTON, HUGHES, JEFFERSON, JENKINS, MIKE JOHNSON, LAFLEUR, LARVADAIN, LYONS, MAGEE, CHARLES OWEN, PIERRE, ROMERO, SELDERS, WHITE, AND WILLARD

CIVIL SERVICE/FIRE & POL: Provides relative to occupational diseases for members in the classified fire service

1 AN ACT

2 To amend and reenact R.S. 33:2011(A) and to enact R.S. 33:2011(E), relative to
3 occupational diseases; provides relative to members employed in the classified fire
4 service; to provide for an extension to the rebuttable presumption; to provide
5 limitations; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 33:2011(A) is hereby amended and reenacted and R.S. 33:2011(E)
8 is hereby enacted to read as follows:

9 §2011. Development of cancer during employment in fire service; occupational
10 disease

11 A.(1) Because of exposure to heat, smoke, and fumes or carcinogenic,
12 poisonous, toxic, or chemical substances, when a firefighter in the classified service
13 who has completed ten or more years of service has developed cancer, the cancer
14 shall be classified as an occupational disease or infirmity connected with the duties
15 of a firefighter. The disease or infirmity shall be presumed to have been caused by
16 or to have resulted from the work performed. This presumption shall be rebuttable
17 by evidence meeting judicial standards;

1 ~~(2) and shall be extended to a member following termination of service for~~
2 ~~a period of three months for each full year of service not to exceed sixty months~~
3 ~~commencing with the last actual date of service.~~ For a firefighter who terminates his
4 service prior to January 1, 2023, this presumption shall be extended to the member
5 following termination of service for a period of three months for each full year of
6 service not to exceed sixty months commencing with the last actual date of service.

7 (3) For a firefighter who is active or who terminates his service on or after
8 January 1, 2023, the disease or infirmity shall be presumed to have been caused by
9 or to have resulted from the work performed, only if the cancer diagnosis is made
10 prior to the firefighter reaching the age of sixty-five. Following termination of
11 service for a period of one hundred twenty months, commencing with the last actual
12 date of service, the presumption shall be extended to the following members:

13 (a) A firefighter who is employed in the fire service for at least ten years and
14 attains the age of fifty-five.

15 (b) A firefighter who is employed in the fire service for at least twenty years
16 and attains the age of fifty.

17 (c) A firefighter who is employed in the fire service for at least twenty-five
18 years.

19 (d) A firefighter who is employed in the fire service for at least ten years,
20 and who is subsequently approved for disability retirement by a public retirement
21 system.

22 * * *

23 E. For claims arising under this Section, the obligation of the employer to
24 furnish such care, services, treatment, drugs, and supplies, whether in state or out of
25 state, is limited to the reimbursement determined to be the amount due under
26 Medicare times a multiplier of one and one-half, or the actual charge made for the
27 service, whichever is less. If there is no Medicare fee schedule reimbursement
28 amount for a particular care, service, treatment, drug, or supply, the reimbursement
29 shall be in accordance with La. R.S. 23:1034.2.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 854 Reengrossed

2022 Regular Session

Stagni

Abstract: Extends the time period of the rebuttable presumption relative to occupational diseases for certain members in the classified fire services in connection with the duties of being a firefighter.

Present law provides that when a firefighter who is in the classified fire service has completed 10 or more years of service develops cancer, the cancer shall be classified as an occupational disease or infirmity.

Present law further provides that the disease or infirmity shall be presumed to have been caused by the work performed. Provides that the presumption is rebuttable by evidence meeting judicial standards.

Proposed law retains present law.

Present law provides that this presumption shall be extended to a member following termination of service for a period of three months for each full year of service not to exceed 60 months.

Proposed law retains present law with respect to firefighters who terminate service prior to Jan. 1, 2023.

Proposed law extends the presumption to a period not to exceed 120 months for firefighters who are active or who terminate their service on or after Jan. 1, 2023, and who have been diagnosed with cancer prior to reaching the age of 65. Proposed law provides that the presumption is extended to such a firefighter if he is in one of the following categories:

- (1) Firefighters who are employed in the fire service for at least 10 years and attain the age of 55.
- (2) Firefighters who are employed in the fire service for at least 20 years and attain the age of 50.
- (3) Firefighters who are employed in the fire service for at least 25 years.
- (4) Firefighters who are employed in the fire service for at least 10 years and who are subsequently approved for disability retirement by a public retirement system.

Proposed law limits the obligation of employers regarding claims filed pursuant to present or proposed law on or after Jan. 1, 2023, to the Medicare fee schedule times 1.5 or the actual charge, whichever is less. Proposed law provides that if Medicare reimbursement is not available, the employer's obligation is limited to the worker's compensation reimbursement schedule.

(Amends R.S. 33:2011(A); Adds R.S. 33:2011(E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill:

1. Make the extended presumption period applicable only to firefighters or retired firefighters who develop cancer on or after Jan. 1, 2023.
2. Provide that any claim by firefighters or retired firefighters who develop cancer prior to Jan. 1, 2023, is also subject to applicable prescriptive periods for indemnity or medical claims.
3. Add limitation on the obligation of employers regarding claims filed pursuant to present or proposed law on or after Jan. 1, 2023.

The House Floor Amendments to the engrossed bill:

1. Relative to present law provisions that extend the presumption for a period not to exceed 60 months, remove proposed law provisions that make the presumption period applicable only to firefighters or retired firefighters who develop cancer prior to Jan. 1, 2023 and instead add provisions that make the presumption period applicable to firefighters who terminate service prior to Jan. 1, 2023.
2. Remove provisions that extend the presumption for a period not to exceed 180 months to firefighters who develop cancer on or after Jan. 1, 2023.
3. Add provisions that extend the presumption for a period of 120 months to active firefighters or certain firefighters who are diagnosed with cancer prior to reaching age 65.
4. Change the maximum obligation of employers regarding claims filed pursuant to present and proposed law to 1.5 times the reimbursement under Medicare.
5. Remove option granted to employers to pay 50% of the actual charge for the service if the amount is less than owed under the worker's compensation schedule.