

## **BILL ANALYSIS**

Senate Research Center

H.B. 1388  
By: Bohac (Creighton)  
State Affairs  
5/1/2015  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, certain compensation benefits are provided to firefighters and emergency medical technicians. Under the current presumption statute, certain medical conditions are presumed by law to be work-related if certain conditions are met. Further, a governmental entity may determine that the presumption does not apply if one or more of the elements necessary to establish the presumption is missing or it can be shown that a factor not associated with the individual's employment caused the disease or illness.

Under current law, it has been asserted that determinations that the presumption does not apply are made with little or no evidence that one of the elements is missing or a factor not associated with the individual's employment caused the disease or illness. H.B. 1388 clarifies that the insurance carrier must (1) explain why the presumption does not apply to the claim for compensation; and (2) describe the evidence reviewed in making the determination that the presumption does not apply. Even if the presumption does not apply, the workers' compensation claim can proceed through the normal statutory and administrative process without the presumption.

H.B. 1388 amends current law relating to certain diseases or illnesses suffered by firefighters and emergency medical technicians.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 607.058, Government Code, as follows:

Sec. 607.058. PRESUMPTION REBUTTABLE. (a) Creates this subsection from existing text and makes no further change.

(b) Requires that a rebuttal offered under this section include a statement by the person offering the rebuttal that describes, in detail, the evidence that the person reviewed before making the determination that a cause not associated with the individual's service as a firefighter or emergency medical technician caused the individual's disease or illness.

SECTION 2. Amends Section 409.022, Labor Code, by adding Subsection (d), as follows:

(d) Defines "emergency medical technician" and "firefighter" for purpose of this subsection. Requires that the notice, in addition to the other requirements of this section, if an insurance carrier's notice of refusal to pay benefits under Section 409.021 (Initiation of Benefits; Insurance Carrier's Refusal; Administrative Violation) is sent in response to a claim for compensation resulting from an emergency medical technician's or a firefighter's disability or death for which a presumption is claimed to be applicable under Subchapter B (Diseases or Illnesses Suffered by Firefighters and Emergency Medical Technicians), Chapter 607, Government Code, include a statement by the carrier that:

(1) explains why the carrier determined a presumption under that subchapter does not apply to the claim for compensation; and

(2) describes the evidence that the carrier reviewed in making the determination described by Subdivision (1).

SECTION 3. Provides that the changes in law made by this Act apply to a claim for benefits or compensation brought on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2015.