

- SUBJECT:** Expanding default presumptions regarding benefits for peace officers
- COMMITTEE:** Homeland Security and Public Safety — favorable, without amendment
- VOTE:** 7 ayes — Nevárez, Paul, Burns, Clardy, Goodwin, Lang, Tinderholt
0 nays
2 absent — Calanni, Israel
- SENATE VOTE:** On final passage, April 11 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** *On House companion bill, HB 1492:*
For — Chris Jones, Combined Law Enforcement Associations of Texas; (*Registered, but did not testify:* David Sinclair, Game Warden Peace Officers Association; Ray Hunt, Houston Police Officers Union; Micah Harmon, Lavaca County Office of the Sheriff; Richard Jankovsky, Diane Martinez, and Clay Taylor, Texas Department of Public Safety Officers Association; Noel Johnson, TMPA; Glenn Deshields, Texas State Association of Fire Fighters; Mario Martinez, Texas State Troopers Association)

Against — Adam Haynes, Conference of Urban Counties; David Reagan, Texas Municipal League Intergovernmental Risk Pool; (*Registered, but did not testify:* Pamela Beachley, Texas Association of Counties Risk Management Pool)

On — Amy Lee, Texas Department of Insurance-Division of Workers' Compensation
- BACKGROUND:** Government Code ch. 607 subch. B establishes the presumption that firefighters and emergency medical technicians (EMTs) who contracted certain medical conditions leading to death or partial or total disability have done so during the course and scope of employment.

Sec 607.052(a) establishes that this presumption applies only to those who

had received, after becoming a firefighter or EMT, a physical examination that failed to reveal evidence of the illness or disease for which benefits or compensation were sought; who had been employed for five or more years as a firefighter or EMT; and who had sought benefits or compensation for a disease or illness that was discovered during employment as a peace officer.

Secs. 607.053, 607.054, and 607.056 include the following medical conditions, respectively, under this presumption:

- smallpox or other diseases against which the firefighter or EMT had been immunized;
- tuberculosis or other diseases of the lungs or respiratory tract; and
- acute myocardial infarction or stroke.

In the case of acute myocardial infarction or stroke, the presumption applies only if the condition occurred while the firefighter or EMT was on duty and was engaging in nonroutine stressful or strenuous physical activity, not including clerical, administrative, or nonmanual activities.

Sec. 607.052 establishes that the presumption does not apply:

- to survivor's benefits paid to the families of firefighters or EMTs who died in the line of duty;
- in a cause of action brought in state or federal court other than one involving judicial review of employment-related benefits or compensation;
- in a determination regarding benefits or compensation involving life insurance purchased by a firefighter or EMT; or
- if the disease or illness is known to be caused by tobacco use and the firefighter or EMT is or has been a user of tobacco or the firefighter or EMT's spouse has been a user of tobacco consumed through smoking.

Sec. 607.058 allows for the presumption to be rebutted through a showing by a preponderance of the evidence that a risk factor, accident, hazard, or

other cause not associated with the individual's service as a firefighter or EMT caused the individual's disease or illness.

Sec. 607.004(a) entitles firefighters and EMTs to preventive immunization for any disease to which the firefighter or EMT may be exposed in performing official duties and for which immunization is possible.

DIGEST: SB 1582 would extend to peace officers the provisions that currently apply to firefighters and emergency medical technicians for determining, for the purposes of benefits provided under certain employee benefit plans, whether certain medical conditions specified in the bill were contracted in the course and scope of their employment.

The bill also would entitle a peace officer to preventive immunization for any disease to which the peace officer might be exposed in performing official duties and for which immunization was possible.

The bill would take effect on September 1, 2019, and would apply to a claim for benefits or compensation brought on or after that date.

SUPPORTERS SAY: SB 1582 would ensure peace officers had coverage for debilitating or fatal illnesses contracted on the job by extending to them the same presumptions regarding those illnesses currently extended to firefighters and emergency medical technicians.

Peace officers are more likely to suffer from disease, but they often are denied workers' compensation benefits because they do not receive the presumption that their disabilities or deaths were caused by their work, leaving them or their loved ones with significant medical bills. This bill would provide to peace officers the same presumptions that currently apply to other first responders when determining the applicability of benefits.

OPPONENTS SAY: SB 1582 is well intentioned, but there is not enough evidence suggesting that peace officers are prone to the same specific medical conditions as

firefighters and emergency medical technicians. Before extending this benefit, a study should be conducted to establish more conclusively that these specific medical conditions actually correlate with work as a peace officer.

Extending the presumption that medical conditions were work-related could put a financial strain on counties, many of which are self-insured. The bill could harm such a county's ability to keep the insurance systems solvent and thus their ability to provide needed aid to the peace officers.