

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RANDY BALDEMOR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

March 20, 2015

**TESTIMONY TO THE
HOUSE COMMITTEE ON JUDICIARY**

For Hearing on Tuesday, March 24, 2015
2:00 p.m., Conference Room 325

BY

JAMES K. NISHIMOTO
DIRECTOR

**Senate Bill No. 675, H.D. 1
Relating to Firefighters**

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON KARL RHOADS AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide comments on S.B. 675, H.D. 1.

The purpose of S.B. 675, H.D. 1, is to provide firefighters with comprehensive medical coverage through workers' compensation benefits by establishing a rebuttable presumption that a firefighter who suffers from cancer, blood-borne infectious disease, or exposure to biochemical substances contracted the condition in the course of employment.

The Department of Human Resources Development (DHRD) has a fiduciary duty to administer the State's self-insured workers' compensation program and its expenditure of public funds. In that regard, DHRD respectfully submits these comments on the bill.

First, Section 386-85, HRS, already contains a presumption that a claim for workers' compensation benefits is for a covered work injury. Section 386-3, HRS, is broadly construed and includes personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the

nature of the employment. These provisions would also apply to a firefighter's claim for cancer, leukemia, blood-borne infectious disease, or methicillin-resistant staphylococcus aureus skin infection.

Second, Section 386-85, HRS, already provides that the presumption of compensability can only be rebutted by "substantial evidence to the contrary." As demonstrated in legions of Disability Compensation Division, Labor and Industrial Relations Appeals Board, Hawaii Intermediate Court of Appeals decisions, and the 2014 Hawaii Supreme Court decision involving a vog-related claim for workers' compensation benefits, this "substantial evidence" standard is a very high standard for employers to overcome.

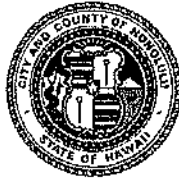
Third, Section 386-82, HRS, already exempts certain exposure-type claims from the normal two-year statute of limitations for filing a workers' compensation claim. This exemption applies to claims for injury caused by occupational exposure to minerals or substances with carcinogenic properties and exposure to radioactive substances. Claims for such injuries can be filed up to two years after knowledge that the injury was proximately caused by, or resulted from the nature of, the employment. This provides an added safeguard for injured employees or their families to file claims when the work-relatedness of such injuries is not readily apparent.

Finally, in light of the apparent interest in having a cancer presumption specific to firefighters in the workers' compensation law, we would recommend convening a task force of stakeholders to first study the issue and make its recommendations—as proposed in H.C.R. 7, H.D. 1, and S.C.R. 6—before any changes are made to the existing statute.

HONOLULU FIRE DEPARTMENT
CITY AND COUNTY OF HONOLULU

636 South Street
Honolulu, Hawaii 96813-5007
Phone: 808-723-7139 Fax: 808-723-7111 Internet: www.honolulu.gov/hfd

KIRK CALDWELL
MAYOR



MANUEL P. NEVES
FIRE CHIEF

LIONEL CAMARA JR.
DEPUTY FIRE CHIEF

March 23, 2015

The Honorable Karl Rhoads, Chair
Committee on Judiciary
House of Representatives
State Capitol, Room 302
Honolulu, Hawaii 96813

Dear Chair Rhoads:

Subject: Senate Bill (SB) 675, Senate Draft (SD) 2, House Draft (HD) 1 Relating to Firefighters

I am Manuel P. Neves, Fire Chief of the Honolulu Fire Department (HFD). The HFD supports SB 675, SD 2, HD 1, with recommended revisions. The bill proposes to provide fire fighters (FF) with comprehensive medical coverage through workers' compensation benefits by establishing a rebuttable presumption that a FF who develops cancer, a blood-borne infectious disease, or hazardous materials exposures contracted the condition in the course of their employment. The proposed revisions to Sections 1 and 2 are attached in track changes format.

Revisions to Section 1 are to correctly identify the completion date of the University of Cincinnati study in 2006 and ensure that the terms in the bill are properly named.

Revisions to Section 2 are to identify the types of diseases and ensure that workers' compensation provides comprehensive coverage.

Revisions in Section 2(a) seek to provide 100 percent medical and average weekly wage, disability indemnity, and death benefits through workers' compensation.

The first deletion in Section 2(b) is to verify that the presumption is rebuttable by "substantial evidence to the contrary," which is consistent with existing workers' compensation law in Hawaii Revised Statutes (HRS) §386-85. We also propose that the last sentence in Section 2(b) be deleted, as it shortens the time limitations for exposures to carcinogenic substances, which is already provided in HRS §386-82.

We further propose that Section 2(c) be deleted, as it is in HRS §386-3, and that the definition of "fire fighters" be included, as found in HRS §88-212.

Thirty-three states and eight Canadian provinces currently have cancer presumptive laws that provide FFs with workers' compensation, medical, and service-connected disability benefits. Numerous studies have proven that the risk of being diagnosed with cancer is higher among

The Honorable Karl Rhoads, Chair
Page 2
March 23, 2015

FFs than the general population. A study of male FFs in Massachusetts from 1987 to 2003 found an increased risk for numerous cancers, including colon and brain cancer. The University of Cincinnati's 2006 study found that on-the-job exposure to soot and toxins creates an increased risk of various cancers among FFs. A federal government study conducted during the development of an Occupational Safety and Health Administration Bloodborne Pathogen Standard showed that 98 percent of emergency medical technicians and 80 percent of FFs are exposed to blood-borne infectious diseases on the job.

FFs are exposed to many compounds designated as carcinogens by the International Agency for Research on Cancer, including benzene, diesel engine exhaust, chloroform, soot, styrene, and formaldehyde. These substances can be inhaled or absorbed through the skin, and FF's protective equipment does not always prevent exposures.

Cancer treatment may take years and costs may exceed the financial resources of FFs and their families. In the unfortunate event that a FF cannot return to duty, this bill will provide much needed benefits. Although the language of the current workers' compensation law presumes a broad coverage of any injury or illness to be work-related, the current system provides the employer with the right to deny claims and proceed through a lengthy litigious environment. A FF who is diagnosed with cancer and undergoes treatment is faced with a life and death struggle that he and his family must battle. The FF's certainty of knowing that benefits will be provided offers some peace of mind during this uncertain time.

The HFD strongly urges your committee's support and passage of SB 675, SD 2, HD 1 with the recommended revisions, which will provide comprehensive workers' compensation benefits to those who risked their lives to protect our citizens.

Should you have questions, please contact Assistant Chief Socrates Bratakos of our Support Services section at 723-7105 or sbratakos@honolulu.gov.

Sincerely,



MANUEL P. NEVES
Fire Chief

MPN/LR:clc

Attachment

A BILL FOR AN ACT

RELATING TO FIREFIGHTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII

SECTION 1. The legislature finds that risk of being diagnosed with cancer is higher among firefighters than the general population. In a three-year study completed in ~~2005~~ 2006 by the University of Cincinnati, researchers concluded that firefighters face a higher risk of cancer than the general population. Statistics from this study show that when compared to the general population, the risk for firefighters is:

- (1) One hundred two per cent higher for testicular cancer;
- (2) Fifty-three per cent higher for multiple myeloma;
- (3) Fifty-one per cent higher for non-Hodgkin's lymphoma;
- (4) Thirty-nine per cent higher for skin cancer;
- (5) Thirty-two per cent higher for brain and malignant melanoma;

- (5) Twenty-nine per cent higher for rectal cancer;
- (6) Twenty-eight per cent higher for prostate cancer;
- (7) Twenty-four per cent higher for buccal cavity and pharynx cancer;
- (8) Twenty-two per cent higher for stomach cancer;
- (9) Twenty-one per cent higher for colon cancer; and
- (10) Fourteen per cent higher for leukemia.

Firefighters also face a greater risk of contracting blood-borne infectious diseases, ~~and illnesses associated with exposures to patient care and biochemical substances due to~~ from exposures to hazardous materials. ~~bioterreism.~~

The purpose of this Act is to provide firefighters with ~~comprehensive one-hundred percent~~ one-hundred percent medical coverage, one-hundred percent average weekly wages, disability indemnity and death benefits ~~through workers' compensation~~ by establishing a rebuttable presumption that a firefighter who ~~suffers from~~ develops cancer, blood-borne infectious diseases, ~~and or~~ conditions related to hazardous material exposures ~~to biochemical substances~~ contracted the condition in the course of employment.

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended to read as follows:

§386- Injuries covered; firefighters. (a) In addition to the injuries covered pursuant to section 386-3, if a firefighter develops cancer, ~~or leukemia, suffers from~~ develops a blood-borne infectious disease, or develops methicillin-resistant staphylococcus aureus skin infection during a period that the firefighter is in the course of employment, the cancer, leukemia, blood-borne infectious disease, or methicillin resistant staphylococcus aureus skin infection shall be presumed to arise out of and in the course of the employment. The workers' compensation benefits shall include, but not be limited to, one-hundred percent medical coverage, one-hundred percent average weekly wages, disability indemnity and death benefits.

(b) This presumption under subsection (a) is rebuttable in the absence of substantial evidence to the contrary. ~~and may be rebutted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer.~~ This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of requisite service, but not to exceed sixty months in any circumstance, commencing with the last date actually worked in the specified capacity.

~~(c) No compensation shall be allowed for an injury incurred by an employee's wilful intention to injure oneself or another by actively engaging in any unprovoked non-work related physical altercation other than in self defense, or by the employee's intoxication."~~ Firefighters are considered to be all regularly employed members of the State, including employees of the department of transportation who were assigned firefighting duties at state airports prior to June 3, 1978, or of the fire departments of the counties, whose principal duties are to prevent and fight fires.

Report Title:

Firefighters; Presumption

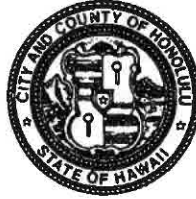
Description:

Provides firefighters with comprehensive medical coverage through workers' compensation benefits by establishing a rebuttable presumption that a firefighter who suffers ~~from~~ develops cancer, blood-borne infectious disease, or condition arising as a result of hazardous material exposures ~~to biochemical substances~~ contracted the condition in the course of employment. Effective 7/1/2050 (SD2 HD 1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU
850 SOUTH KING STREET, 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: www.honolulu.gov/hr

KIRK CALDWELL
MAYOR



CAROLEE C. KUBO
DIRECTOR

NOEL T. ONO
ASSISTANT DIRECTOR

March 24, 2015

The Honorable Karl Rhoads, Chair
and Members of the Committee
on Judiciary
The House of Representatives
State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Members of the Committee:

**SUBJECT: Senate Bill No. 675, SD 2, HD 1
Relating to Firefighters**

The purpose of S.B. 675, SD 2, HD 1, is to provide firefighters with a rebuttable presumption under workers' compensation for cancer, blood-borne infectious diseases, and staphylococcus aureus skin infections. The City and County of Honolulu offers the following comments with respect to the bill, which is nearly identical to a bill which this committee heard earlier this session (H.B. 435).

Hawaii Revised Statutes Section 386-85 currently provides that injuries sustained under the conditions set forth in the measure are presumed covered for workers' compensation purposes in the absence of substantial evidence to the contrary. As a result, the presumption set forth in Section 2 of S.B. 675, SD 2, HD 1, is duplicative and unnecessary.

Section 2 of the measure states that the firefighter presumption may be rebutted by evidence that the carcinogen to which the firefighter has demonstrated exposure is not reasonably linked to the disabling cancer. However, it is not necessary to include a specific standard for overcoming the presumption as there is already a "substantial evidence" standard set forth in the law. Adding a different standard for a limited set of injuries sustained by a finite group of employees is excessive and discriminatory. Moreover, the standard proposed by the bill fails to account for individual employees who may develop cancer due to their voluntary use of tobacco.

The Honorable Karl Rhoads, Chair
and Members of the Committee
on Judiciary
The House of Representatives
March 24, 2015
Page 2

Finally, the City takes no position with respect to Section 3, which mandates that the State Fire Council develop minimum standards and procedures to ensure the health and safety of our firefighters and first responders.

Sincerely,

A handwritten signature in black ink, appearing to read "Carolee C. Kubo". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Carolee C. Kubo
Director

cc: Mayor's Office

SHOPO



PRESIDENT
Tenari R. Ma'afala

VICE PRESIDENT
Malcolm Lutu

TREASURER
James "Kimo" Smith

SECRETARY
Michael Cusumano

DIRECTORS AT LARGE
Don Faumuina
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HONOLULU CHAPTER CHAIR
Stanley Aquino

HAWAI'I CHAPTER CHAIR
Darren Horio

KAUAI CHAPTER CHAIR
Jesse Guirao

MAUI CHAPTER CHAIR
Barry Aoki

Main Office & Honolulu Chapter
1717 Hoe Street
Honolulu, Hawaii 96819-3125
Ph: (808) 847-4676 "84 SHOPO"
(800) 590-4676 Toll Free
Fax: (808) 841-4818

Hawai'i Chapter Office
688 Kino'ole Street, Room 220 B
Hilo, Hawaii 96720
Ph: (808) 934-8405
Fax: (808) 934-8210

Maui Chapter Office
1887 Wili Pa Loop, Suite #2
Wailuku, Hawaii 96793
Ph: (808) 242-6129
Fax: (808) 242-9519

Kauai Chapter Office
4264 Rice Street, Lihue
Mailing Address:
P.O. Box 1708
Lihue, Hawaii 96766
Ph: (808) 246-8911

TO: The Honorable Karl Rhoads, Chair
House Committee on Judiciary

The Honorable Joy A. San Buenaventura, Vice Chair
House Committee on Judiciary

Members of the House Committee on Judiciary

FROM: Tenari Ma'afala, President *Tenari R. Ma'afala*
State of Hawaii Organization of Police Officers

DATE: March 22, 2015

SUBJECT: Testimony on S.B. No. 675 SD2 HD1, Relating to
Firefighters

HEARING DATE: Tuesday, March 24, 2015
2:00 p.m. Conference Room 325

This bill creates a rebuttable presumption for workers compensation benefits for firefighters in regards to certain diseases and exposure to biochemical substances. The State of Hawaii Organization of Police Officers ("SHOPO") supports this bill with amendments to extend its applicability to county police officers.

Workers compensation claims for Hawaii's county police officers demonstrate exposure to biochemical hazards when arriving as first responders at fires and other hazardous materials events. Police have been known many times to search burning buildings and to bring injured victims to safety, at the same time being exposed to hazardous fumes.

While the University of Cincinnati study focuses on the meta-analysis of 32 studies regarding firefighter exposure to "various mixtures of particulates, gases, mists, fumes of an organic and/or inorganic nature and the resultant pyrolysis products" at fire scenes (Cancer Risk Among Firefighters: A Review and Meta-analysis of 32 Studies, Grace K. LeMasters, Ph.D. et al., 2005), it must be remembered that police officers are also present at these scenes.

Additionally, county police officers are exposed to infectious diseases on a regular basis when making arrests and other situations where officers have to come into physical contact with various members of the public, who may be contagious and/or infected.

SHOPO proposes amendments as follows:

§386- Injuries covered; firefighters, county police officers. (a) In addition to the injuries covered pursuant to section 386-3, if a firefighter or county police officer develops cancer or leukemia

We strongly ask your support for our proposed amendments which would include county police officers in the coverage of this bill, and for passage of this bill.

TESTIMONY OF JANICE FUKUDA

COMMITTEE ON JUDICIARY
Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair

Tuesday, March 24, 2015
2:00 p.m.

SB 675, SD2, HD1

Chair Rhoads, Vice Chair San Buenaventura and members of the Committee, my name is Janice Fukuda, Assistant Vice President, Workers' Compensation Claims at First Insurance, testifying on behalf of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately thirty-six percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** this bill.

The proposed language specifies descriptive conditions under which a firefighter would be entitled to workers' compensation benefits. This bill also attempts to establish a special statute of limitations to file a claim.

HRS 386-3 Injuries covered states that "If an employee suffers personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment, the employee's employer or the special compensation fund shall pay compensation to the employee or the employee's dependents as provided in this chapter." We believe this language addresses illnesses referenced in this bill that may arise in the course and scope of employment.

The proposed language does not allow rebuttal of non-carcinogenic conditions that the firefighter may have been exposed to following termination of employment. Blood borne infectious disease, methicillin-resistant staphylococcus aureus skin infections can occur in anyone exposed to a variety environments unrelated to employment.

HRS 386-82 Claim for Compensation; limitation of time specifically addresses exposures to carcinogens and does not require years of service as a prerequisite to file a claim.

We believe the concern this bill attempts to address is already covered in HRS 386 and that the provisions in this bill is problematic due to conflicts with various other sections in HRS 386.

For these reasons we ask that this bill be held.

Thank you for the opportunity to testify.



HAWAII FIRE FIGHTERS ASSOCIATION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 1463, AFL-CIO

1018 PALM DRIVE | HONOLULU, HAWAII 96814

TEL: (808) 949-1566 FAX: (808) 952-6003

www.hawaiifirefighters.org

HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

March 24, 2015

Committee on Judiciary

Testimony by
Hawaii Fire Fighters Association

S.B. 675 SD2 HD1 Relating to Firefighters

My name is Robert H. Lee and I am the President of the Hawaii Fire Fighters Association (HFFA), Local 1463, AFL-CIO. HFFA represents approximately 2,100 active-duty professional fire fighters throughout the State. We **support S.B. 675 SD2 HD1**, which provides fire fighters with comprehensive medical coverage through workers compensation by establishing a rebuttable presumption. S.B. 675 SD2 HD1 recognizes the occupational exposures experienced by fire fighters in the line of duty.

Thirty-three states and eight Canadian provinces already have cancer presumptive laws that provide fire fighters with medical and service-connected disability benefits. Several studies, as recommended by the International Association of Fire Fighters (IAFF), serve as the basis that demonstrates the need for cancer presumptive legislation locally. In a meta-analysis of 32 studies conducted by GK LeMasters in 2006, there was significant excess risk of cancer that was reported for the brain, stomach, colon, rectum, prostate, testes, multiple myeloma and non-Hodgkin lymphoma (NHL). A 2009 study conducted by the U.S. National Institute for Occupational Study (NIOSH) compared fire fighters to the general public for incidence rates in cancer diagnosis. Of the 30,000 full-and-part-time fire fighters involved in the study, there was an increase in cancer risks associated with excess malignancies of the oral, respiratory, digestive, and urinary systems. There were 4461 malignant tumors distributed among 3903 fire fighters with cancer, among which 488 reported cancers were at multiple primary sites.

More recent studies, including 2010 report by the Underwriters Laboratories Inc. regarding fire fighters exposure to smoke particulates established that because 99+% of smoke particles are less than 1 micron in diameter making it invisible to the naked eye, it is difficult to determine whether or not "clean air" is indeed clean air post-fire. Such exposure leads to deposits of phthalates, PAHs, lead, and mercury that remain on fire fighters' hoods and gloves

that can be dermally absorbed or inhaled, thus contributing to the correlation with increased cardiovascular and respiratory morbidity and mortality, i.e., lung cancer. “Systemic Exposure to PAHs and Benzene in Firefighters Suppressing Controlled Structure Fires,” a study administered in 2014, reported that despite wearing full protective ensembles, fire fighters absorb polycyclic aromatic hydrocarbons (PAHs) through their skin during firefighting as shown by an increase in their biological levels following the exposure period. PAHs are linked to an increase risk of skin, lung, bladder and gastrointestinal cancers.

These studies are consistent with other previous studies assessing the cancer risks in fire fighters associated with occupational exposure. With statistics showing an increase in the risk of cancer as well as infectious diseases and illnesses associated with exposure to patient care and biochemical substances for fire fighters in comparison to the general population, it is important that discussion begins.

HFFA appreciates the Committee’s favorable consideration of this measure and ask that you **pass S.B. 675 SD2 HD1.**



SHAN S. TSUTSUI
LIEUTENANT GOVERNOR

LATE

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.labor.hawaii.gov
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 24, 2015

To: The Honorable Karl Rhoads, Chair,
The Honorable Joy A. San Buenaventura, Vice Chair, and
Members of the House Committee on Judiciary

Date: Tuesday, March 24, 2015
Time: 2:00 p.m.
Place: Conference Room 325, State Capitol

From: Elaine N. Young, Acting Director
Department of Labor and Industrial Relations (DLIR)

Re: S.B. No. 675 H.D. 1 Relating to Firefighters

I. OVERVIEW OF PROPOSED LEGISLATION

SB675 HD1 proposes to add a new section in Chapter 386, Hawaii Revised Statutes (HRS). Section 2 of the proposal states that this bill will provide firefighters with comprehensive medical coverage through workers' compensation benefits by establishing a rebuttable presumption that a firefighter who suffers from cancer, blood-borne infectious disease, or exposure to biochemical substances, contracted the condition in the course of employment.

II. CURRENT LAW

Section 386-3, HRS, defines injury and provides that the employee's employer shall pay compensation to the employee or the employee's dependents as provided in chapter 386 if an employee suffers personal injury either by accident arising out of and in the course of the employment, or by disease proximately caused by or resulting from the nature of the employment.

Section 386-85, HRS, provides that there is a presumption that a claim for compensation is for a covered work injury. Section 386-85, HRS, provides that in any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed, in the absence of substantial evidence to the contrary:

- (1) That the claim is for a covered work injury;
- (2) That sufficient notice of such injury has been given;
- (3) That the injury was not caused by the intoxication of the injured employee;
and
- (4) That the injury was not caused by the willful intention of the injured employee to injure oneself or another.

III. COMMENTS ON THE SENATE BILL

Section 2, paragraph (b) references a “rebuttable” presumption. The current Section 386-85, HRS, already has provisions for presumption and rebuttal.

The department understands the concerns raised in this measure that the litigious environment of the workers’ compensation (WC) system and the difficulty of finding a physician who will accept a WC claimant may prevent firefighters from filing for and/or pursuing a WC claim in order to receive timely, complex, and expensive medical treatments due them under the WC law.

The department, however, recognizes that these individuals can still pursue their diagnosis and treatment through their health plan (e.g. Employer-Union Health Benefits Trust Fund – EUTF). In the event of a controverted workers’ compensation claim, section 12-12-45 (Controverted workers’ compensation claims), Hawaii Administrative Rules, provides for the health care contractor to pay or provide for the medical services in accordance with the health care contract. If WC liability is later established, the health care contractor shall be reimbursed by the WC carrier.

The department is also concerned that these individuals may not file for or pursue their WC claim because of a lack of knowledge of their eligibility or to avoid the litigious and lengthy process of the WC system. If the individual later succumbs to the injury or illness and has not filed for WC, survivors of the claimant may not be eligible to receive benefits that would have been due them (386-41 through 386-44, HRS).

William P. Kenoi
Mayor



Darren J. Rosario
Fire Chief

Renwick J. Victorino
Deputy Fire Chief

LATE

County of Hawai'i
HAWAII FIRE DEPARTMENT
25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720
(808) 932-2900 • Fax (808) 932-2928

March 23, 2015

The Honorable Karl Rhoads, Chair
Committee on Judiciary
House of Representatives
State Capitol, Room 302
Honolulu, Hawai'i 96813

Dear Chair Rhoads:

Subject: Senate Bill 675, Senate Draft 2, House Draft 1
RELATING TO FIRE FIGHTERS
Hearing Date: Tuesday, March 24, 2015
Time/Place of Hearing: 2:00 p.m.

I am Darren J. Rosario, Fire Chief of the Hawai'i Fire Department of the County of Hawai'i (HCFD). The HCFD supports SB 675, SD 2, HD 1 with recommended revisions. The bill proposes to provide fire fighters (FF) with comprehensive medical coverage through workers' compensation benefits by establishing a rebuttable presumption that a FF who develops cancer, a blood-borne infectious disease, or hazardous materials (HM) exposures contracted the condition in the course of their employment. The proposed revisions to Sections 1 and 2 are attached in track changes format.

Revisions to Sections 1 are to correctly identify that the date of the University of Cincinnati study was completed in 2006 and that the terms in the bill are properly named. Revisions to Section 2 are to identify the types of diseases and that workers' compensation shall provide comprehensive coverage. The revisions in Section 2(a) seeks to provide 100 percent medical and average weekly wage, disability indemnity, and death benefits through workers' compensation. The first deletion in Section 2(b) is to verify that the presumption is rebuttable by "substantial evidence to the contrary", which is consistent with existing workers' compensation law found in Hawai'i Revised Statutes (HRS) 386-85. We also propose that the last sentence in Section 2 (b) be deleted. This sentence is not needed, as it shortens the time limitations for exposures to carcinogenic substances, which is already provided in HRS §386-82. We further propose that Section 2 (c) be deleted, as it is already found in HRS §386-3 and that the definition of "firefighters", as found in HRS 88-212, be included.



The Honorable Karl Rhoads, Chair

March 23, 2015

Page 2

Thirty-three states and eight Canadian provinces currently have cancer presumptive laws that provide FFs with workers' compensation, medical, and service-connected disability benefits. Numerous studies have proven that the risk of being diagnosed with cancer is higher among FFs than the general population. A study of male FFs in Massachusetts from 1987 to 2003 found an increased risk for numerous cancers, including colon and brain cancer. The University of Cincinnati's 2006 study found that on-the-job exposure to soot and toxins creates an increased risk of various cancers among FFs. A federal government study conducted during the development of an Occupational Safety and Health Administration Bloodborne Pathogen Standard showed that 98 percent of emergency medical technicians and 80 percent of FFs are exposed to blood-borne infectious diseases on the job.

FFs are exposed to many compounds designated as carcinogens by the International Agency for Research on Cancer, including benzene, diesel engine exhaust, chloroform, soot, styrene, and formaldehyde. These substances can be inhaled or absorbed through the skin, and FF's protective equipment does not always prevent exposures.

Cancer treatment may take years and costs may exceed the financial resources of FFs and their families. In the unfortunate event that a FF cannot return to duty, this bill will provide much needed benefits. Although the language of the current workers compensation law presumes a broad coverage of any injury or illness to be work-related, the current system provides the employer with the right to deny claims and proceed through a lengthy litigious environment. A FF who is diagnosed with cancer and undergoes treatment is faced with a life and death struggle that he and his family must battle. The FF's certainty of knowing that benefits will be provided gives some peace of mind during this uncertain time.

The HCFD strongly urges your committee's support and passage of SB 675, SD 2, HD 1 with the recommended revisions, which will provide comprehensive workers' compensation benefits to those who risked their lives to protect our citizens.

Should you have questions, please contact me at 808-932-2903 or fire@hawaiicounty.gov.

Sincerely,



DARREN J. ROSARIO
Fire Chief

A BILL FOR AN ACT

RELATING TO FIREFIGHTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII

SECTION 1. The legislature finds that risk of being diagnosed with cancer is higher among firefighters than the general population. In a three-year study completed in ~~2005~~ 2006 by the University of Cincinnati, researchers concluded that firefighters face a higher risk of cancer than the general population. Statistics from this study show that when compared to the general population, the risk for firefighters is:

- (1) One hundred two per cent higher for testicular cancer;
- (2) Fifty-three per cent higher for multiple myeloma;
- (3) Fifty-one per cent higher for non-Hodgkin's lymphoma;
- (4) Thirty-nine per cent higher for skin cancer;
- (5) Thirty-two per cent higher for brain and malignant melanoma;

- (5) Twenty-nine per cent higher for rectal cancer;
- (6) Twenty-eight per cent higher for prostate cancer;
- (7) Twenty-four per cent higher for buccal cavity and pharynx cancer;
- (8) Twenty-two per cent higher for stomach cancer;
- (9) Twenty-one per cent higher for colon cancer; and
- (10) Fourteen per cent higher for leukemia.

Firefighters also face a greater risk of contracting blood-borne infectious diseases, and illnesses associated with exposures to patient care and ~~biochemical substances due to~~ from exposures to hazardous materials. bioterrorism.

The purpose of this Act is to provide firefighters with ~~comprehensive~~ one-hundred percent medical coverage, one-hundred percent average weekly wages, disability indemnity and death benefits ~~through~~ workers' compensation by establishing a rebuttable presumption that a firefighter who ~~suffers from~~ develops cancer, blood-borne infectious diseases, ~~and or~~ conditions related to hazardous material exposures ~~to biochemical substances~~ contracted the condition in the course of employment.

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended to read as follows:

§386- Injuries covered; firefighters. (a) In addition to the injuries covered pursuant to section 386-3, if a firefighter develops cancer, or leukemia, suffers from develops a blood-borne infectious disease, or develops methicillin-resistant staphylococcus aureus skin infection during a period that the firefighter is in the course of employment, the cancer, leukemia, blood-borne infectious disease, or methicillin resistant staphylococcus aureus skin infection shall be presumed to arise out of and in the course of the employment. The workers' compensation benefits shall include, but not be limited to, one-hundred percent medical coverage, one-hundred percent average weekly wages, disability indemnity and death benefits.

(b) This presumption under subsection (a) is rebuttable in the absence of substantial evidence to the contrary. ~~and may be rebutted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of requisite service, but not to exceed sixty months in any circumstance, commencing with the last date actually worked in the specified capacity.~~

~~(c) No compensation shall be allowed for an injury incurred by an employee's wilful intention to injure oneself or another by actively engaging in any unprovoked non-work related physical altercation other than in self-defense, or by the employee's intoxication."~~ Firefighters are considered to be all regularly employed members of the State, including employees of the department of transportation who were assigned firefighting duties at state airports prior to June 3, 1978, or of the fire departments of the counties, whose principal duties are to prevent and fight fires.

Report Title:

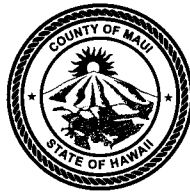
Firefighters; Presumption

Description:

Provides firefighters with comprehensive medical coverage through workers' compensation benefits by establishing a rebuttable presumption that a firefighter who ~~suffers from~~ develops cancer, blood-borne infectious disease, or condition arising as a result of hazardous material exposures ~~to biochemical substances~~ contracted the condition in the course of employment. Effective 7/1/2050 (SD2 HD 1)

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ALAN M. ARAKAWA
MAYOR



JEFFREY A. MURRAY
CHIEF

ROBERT M. SHIMADA
DEPUTY CHIEF

COUNTY OF MAUI
DEPARTMENT OF FIRE AND PUBLIC SAFETY

LATE

200 DAIRY ROAD
KAHULUI, MAUI, HAWAII 96732
(808) 270-7561
FAX (808) 270-7919
EMAIL: fire.dept@mauicounty.gov

March 23, 2015

The Honorable Karl Rhoads, Chair
Committee on Judiciary
House of Representatives
State Capitol, Room 302
Honolulu, Hawaii 96813

Dear Chair Rhoads:

Subject: Senate Bill (SB) 675, Senate Draft (SD) 2 House Draft (HD) 1 Relating to Firefighters

I am Jeffrey A. Murray, Fire Chief of the Maui Fire Department (MFD). The MFD supports SB 675, SD 2, HD 1 with recommended revisions. The bill proposes to provide fire fighters (FF) with comprehensive medical coverage through workers' compensation benefits by establishing a rebuttable presumption that a FF who develops cancer, a blood-borne infectious disease, or hazardous materials (HM) exposures contracted the condition in the course of their employment. The proposed revisions to Sections 1 and 2 are attached in track changes format.

Revisions to Sections 1 are to correctly identify that the date of the University of Cincinnati study was completed in 2006 and that the terms in the bill are properly named. Revisions to Section 2 are to identify the types of diseases and that workers' compensation shall provide comprehensive coverage. The revisions in Section 2(a) seeks to provide 100 percent medical and average weekly wage, disability indemnity, and death benefits through workers' compensation. The first deletion in Section 2(b) is to verify that the presumption is rebuttable by "substantial evidence to the contrary", which is consistent with existing workers' compensation law found in Hawaii Revised Statutes (HRS) 386-85. We also propose that the last sentence in Section 2 (b) be deleted. This sentence is not needed, as it shortens the time limitations for exposures to carcinogenic substances, which is already provided in HRS §386-82. We further propose that Section 2 (c) be deleted, as it is already found in HRS §386-3 and that the definition of "firefighters", as found in HRS 88-212, be included.

Thirty-three states and eight Canadian provinces currently have cancer presumptive laws that provide FFs with workers' compensation, medical, and service-connected disability benefits. Numerous studies have proven that the risk of being diagnosed with cancer is higher among FFs than the general population. A study of male FFs in Massachusetts from 1987 to 2003 found an increased risk for numerous cancers, including colon and brain cancer. The University of Cincinnati's 2006 study found that on-the-job exposure to soot and toxins creates an increased risk of various cancers among FFs. A federal government study conducted during the development of an Occupational Safety and Health Administration Bloodborne Pathogen Standard showed that 98 percent of emergency medical technicians and 80 percent of FFs are exposed to blood-borne infectious diseases on the job.

The Honorable Karl Rhoads, Chair
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FFs are exposed to many compounds designated as carcinogens by the International Agency for Research on Cancer, including benzene, diesel engine exhaust, chloroform, soot, styrene, and formaldehyde. These substances can be inhaled or absorbed through the skin, and FF's protective equipment does not always prevent exposures.

Cancer treatment may take years and costs may exceed the financial resources of FFs and their families. In the unfortunate event that a FF cannot return to duty, this bill will provide much needed benefits. Although the language of the current workers compensation law presumes a broad coverage of any injury or illness to be work-related, the current system provides the employer with the right to deny claims and proceed through a lengthy litigious environment. A FF who is diagnosed with cancer and undergoes treatment is faced with a life and death struggle that he and his family must battle. The FF's certainty of knowing that benefits will be provided gives some peace of mind during this uncertain time.

The MFD strongly urges your committee's support and passage of SB 675, SD 2, HD 1 with the recommended revisions, which will provide comprehensive workers' compensation benefits to those who risked their lives to protect our citizens.

Should you have questions, please contact Assistant Chief Socrates Bratakos of our Support Services section at 723-7105 or sbratakos@honolulu.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Murray".

JEFFREY A. MURRAY
Fire Chief

A BILL FOR AN ACT

RELATING TO FIREFIGHTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII

SECTION 1. The legislature finds that risk of being diagnosed with cancer is higher among firefighters than the general population. In a three-year study completed in ~~2005~~ 2006 by the University of Cincinnati, researchers concluded that firefighters face a higher risk of cancer than the general population. Statistics from this study show that when compared to the general population, the risk for firefighters is:

- (1) One hundred two per cent higher for testicular cancer;
- (2) Fifty-three per cent higher for multiple myeloma;
- (3) Fifty-one per cent higher for non-Hodgkin's lymphoma;
- (4) Thirty-nine per cent higher for skin cancer;
- (5) Thirty-two per cent higher for brain and malignant melanoma;

- (5) Twenty-nine per cent higher for rectal cancer;
- (6) Twenty-eight per cent higher for prostate cancer;
- (7) Twenty-four per cent higher for buccal cavity and pharynx cancer;
- (8) Twenty-two per cent higher for stomach cancer;
- (9) Twenty-one per cent higher for colon cancer; and
- (10) Fourteen per cent higher for leukemia.

Firefighters also face a greater risk of contracting blood-borne infectious diseases, ~~and~~ illnesses associated with exposures to patient care and ~~biochemical substances due to~~ from exposures to hazardous materials. bioterrorism.

The purpose of this Act is to provide firefighters with ~~comprehensive one-hundred percent~~ one-hundred percent medical coverage, one-hundred percent average weekly wages, disability indemnity and death benefits ~~through~~ workers' compensation by establishing a rebuttable presumption that a firefighter who ~~suffers from~~ develops cancer, blood-borne infectious diseases, ~~and or~~ conditions related to hazardous material exposures ~~to~~ biochemical substances contracted the condition in the course of employment.

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