



## HSJ-PP-06: FIREFIGHTER CANCER PRESUMPTION

### COMMITTEE RECOMMENDATION: DEFER TO LEGISLATIVE CONFERENCE

**PROPOSED POLICY:** FAC SUPPORTS legislation clarifying language in the 2019 CS/CS/SB 426-Firefighters ([Ch. 2019-21, L.O.F.](#))

**BACKGROUND:** Charlotte County is seeking FAC’s support for a bill clarifying language in the 2019 CS/CS/SB 426-Firefighters.

On July 1, 2019, CS/CS/SB 426 went into effect. This bill makes firefighters who are diagnosed with certain cancers eligible to receive certain disability or death benefits. Specifically, in lieu of pursuing workers’ compensation coverage, a firefighter is entitled to cancer treatment and a one-time cash payout of \$25,000, upon the firefighter’s initial diagnosis of cancer.

To receive these benefits, the firefighter must be employed by the employer for at least five continuous years, may not have used tobacco products in the preceding five years, and may not have been employed in any other position that is proven to create a higher risk for any cancer in the preceding five years.

#### ANALYSIS:

- Charlotte County is seeking clarification on several sections within CS/CS/SB 426-Firefighters:
  - **Line 38:** *“7. Invasive skin cancer.”*
    1. What does “invasive skin cancer mean/entail?
  - **Lines 61-142:** *“Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers’ compensation benefits under chapter 440...”*
    1. How does this section comport with collective bargaining agreements currently in effect?
    2. Does this re-open collective bargaining agreements that are currently in effect?
    3. Does implementing this new mandate start with bargaining impasse?
  - **Lines 61-63:** *“Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers’ compensation benefits under chapter 440...”*
    1. Does this limit a firefighter from electing both (workers compensation and the CS/CS/SB 426 listed benefits)?
    2. Does this create an exception to public policy that holds that employees cannot waive workers’ compensation benefits except in certain limited situations?

- **Lines 65-66:** *“...has not used tobacco products for at least the preceding 5 years.”*
  1. Will this allow an employer to conduct health screenings to ensure this requirement is met?
  2. Will this allow an employer to receive medical records to ensure this requirement is met?
  3. Will this allow an employer to contact the firefighters’ doctors to ensure this requirement is met?
  
- **Lines 66-68:** *“...and has not been employed in any other position in the preceding 5 years which is proven to create a higher risk for any cancer...”*
  1. Will this allow an employer to conduct a risk assessment on the “other high-risk position(s)” to ensure this requirement is met?
  2. Will this allow an employer to require disclosures of outside employment?
  
- **Lines 74-75:** *“(b) A one-time cash payout of \$25,000, upon the firefighter’s initial diagnosis of cancer.”*
  1. What if a firefighter is under a different health plan/private employer plan/public employer plan?
  2. Is the \$25,000 cash payout limited to only one cancer or applicable to multiple diagnosis/different diagnosis/metastasized diagnosis?
  
- **Lines 77-88:** *“If the firefighter elects to continue coverage in the employer sponsored health plan or group health insurance trust fund after he or she terminates employment, the benefits specified in paragraphs (a) and (b) must be made available by the former employer of a firefighter for 10 years following the date on which the firefighter terminates employment so long as the firefighter otherwise met the criteria specified in this subsection when he or she terminated employment and was not subsequently employed as a firefighter following that date. For purposes of determining leave time and employee retention policies, the employer must consider a firefighter’s cancer diagnosis as an injury or illness incurred in the line of duty.”*
  1. What does terminate employment mean?
  2. What if the firefighter is fired with cause?
  3. COBRA benefits allow former employees to remain in the employer’s health plan for up to 3 years. How does this interplay with the 10-year requirement?
  
- **Lines 120-124:** *“(5)(a) The costs to provide the reimbursements and lump sum payments under subsection (2) and the costs to provide disability retirement benefits under paragraph (3)(b) and the line-of-duty death benefits under paragraph (4)(b) must be borne solely by the employer.”*
  1. What is the prescribed funding source for this sub-section?
  
- **Lines 125-133:** *“(5)(b) The employer or employers participating in a retirement plan or system are solely responsible for the payment of the contributions necessary to fund the increased actuarial costs associated with the implementation of the presumptions under paragraphs (3)(a) and (4)(a) ...”*



1. What is the prescribed funding source for this sub-section?

- **Line 179:** “Section 5. This act shall take effect July 1, 2019.”
  1. When does the benefits and claims within this bill take effect?

- Charlotte County is in support of our county and state firefighters, and **only** wants to ensure qualified firefighters receive their full and appropriate benefits.
- Charlotte County is requesting that FAC act to ensure that counties and the state of Florida are fulfilling the intent of the bill in an orderly process that protects qualified firefighters.

**FISCAL IMPACT:** The overall fiscal impact of the requested clarifying language to CS/CS/SB 426 is unknown at this time.

**FAC STAFF NOTES:**

- FAC 2022 Policy Conference
  - HSJ-PP-06 was recommended to be amended prior to the legislative conference.
  - The committee will work on proposing clarifying language for CS/CS/SB 426 to define certain cancers so firefighters will receive benefits in the most harmful cases. FAC Staff will also reach out to the CFO to determine the Cabinet Office’s position on the issue. Committee members specifically brought up invasive melanoma vs. basal cell).

This proposal seeks to amend s. [s. 112.1816, F.S.](#) in hopes of providing clarifying language to support the protection and expansion of firefighter health/benefits.

On July 1, Ch. 2019- 21, L.O.F. (CS/CS/SB 426) went into effect. This bill makes firefighters who are diagnosed with certain cancers eligible to receive certain disability or death benefits. Specifically, in lieu of pursuing workers’ compensation coverage, a firefighter is entitled to cancer treatment and a one-time cash payout of \$25,000, upon the firefighter’s initial diagnosis of cancer. There are 21 enumerated cancers outlined in statute.

To receive these benefits, the firefighter must be employed by the employer for at least five continuous years, may not have used tobacco products in the preceding five years, and may not have been employed in any other position that is proven to create a higher risk for any cancer in the preceding five years.

Statute 112.1816, F.S. provides adjustments to the employer-paid contribution rates for the Special Risk class and the Deferred Retirement Option Program (DROP) that fund the FRS’s normal costs and unfunded actuarial liability, and adjusts the percentage of funds allocated to provide in line of duty death benefits for investment plan members. When the bill went into



effect, there was an estimated **\$3.28 million cost** for counties (the highest of all employer groups).

FAC released an FAQ resource page to address questions and concerns of Ch.2019- 21, L.O.F. (CS/CS/SB 426) when it passed: [http://www.fl-counties.com/sites/default/files/2019-08/FF%20Cancer%20Benefit%20Law%20-%20FAQ\\_0.pdf](http://www.fl-counties.com/sites/default/files/2019-08/FF%20Cancer%20Benefit%20Law%20-%20FAQ_0.pdf)

- **Statutes**

- [s. 112.1816, F.S.](#) Firefighters; Cancer Diagnosis
- [s. 121.735, F.S.](#) Allocations for member line-of-duty death benefits; percentage amounts

- **Bills**

- **2022:**
  - [SB 838 – Fire Investigators](#) by Appropriations Committee (2022) – Passed and signed by the Governor (Expands definition of firefighter to full-time fire investigators)
    - The implementation of this bill expanded the scope of those eligible for firefighter benefits by expanding the pool to fire investigators.
    - [Ch. 2022-131, L.O.F.](#)
- **2019:**
  - [CS/CS/SB 426 – Firefighters](#) by Senator Flores - Passed
    - [Ch. 2019-21, L.O.F.](#)
    - [Staff Analysis for SB 426](#)
  - [SB 784 - Retirement by Governmental Oversight and Accountability Committee](#) - Failed
    - The bill adjusted the allocation of funds to provide disability coverage to members of the investment plan of the Florida Retirement System

- **Past FAC statements—none**

- FAC does not have any current guiding principles to support/defend this proposal.
- Last year, HSJ-PP-10: FIREFIGHTER EMPLOYMENT (RECIPROCITY & EQUIVALENCY OF OUT-OF-STATE FIREFIGHTERS) was proposed and **Failed**. The proposal attempted to expedite the process for determination of equivalency and reciprocity allowing out-of-state certificated fire fighters to be hired in Florida on a reciprocal basis. Additionally, support a grace-period whereby a firefighter certified Out-of-State be employed while an application for equivalency is being evaluated.

Additional Citations:

- FAC's Firefighter Benefits FAQ:



- [http://www.fl-counties.com/sites/default/files/2019-08/FF%20Cancer%20Benefit%20Law%20-%20FAQ\\_0.pdf](http://www.fl-counties.com/sites/default/files/2019-08/FF%20Cancer%20Benefit%20Law%20-%20FAQ_0.pdf)

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**ASSIGNED COMMITTEE:** HSJ

**BOARD SUPPORT:**

**UNFUNDED MANDATE:** No

**PROTECTIVE OF HOME RULE:** N/A