

HOUSE BILL 260

Introduced by Driscoll, et al.

1/19	Introduced
1/20	Referred to Labor & Employment Relations
1/20	First Reading
1/20	Fiscal Note Requested
1/26	Fiscal Note Received
1/26	Fiscal Note Printed
1/28	Hearing
2/20	Tabled in Committee

1 House BILL NO. 260
 2 INTRODUCED BY Eric Yellowtail
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A PRESUMPTION
 5 THAT A FIREFIGHTER IMPAIRED WITH CANCER, HUMAN
 6 IMMUNODEFICIENCY VIRUS, HEPATITIS B OR C, OR TUBERCULOSIS
 7 SUFFERED THE IMPAIRMENT IN THE LINE OF DUTY AND IS ENTITLED
 8 TO COMPENSATION UNDER THE OCCUPATIONAL DISEASE ACT OF
 9 MONTANA; AND AMENDING SECTION 39-72-408, MCA."

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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 39-72-408, MCA, is amended to read:

13 "39-72-408. Proximate causation. (1) Except as provided
 14 in subsection (2), Occupational occupational diseases shall
 15 be deemed are considered to arise out of the employment only
 16 if:

17 (1)(a) there is a direct causal connection between the
 18 conditions under which the work is performed and the
 19 occupational disease;

20 (2)(b) the disease can be seen to have followed as a
 21 natural incident of the work as a result of the exposure
 22 occasioned by the nature of the employment;

23 (3)(c) the disease can be fairly traced to the
 24 employment as the proximate cause;

25 (4)(d) the disease does not come from a hazard to which

1 workmen workers would have been equally exposed outside of
 2 the employment; and

3 (5)(e) the disease is incidental to the character of
 4 the business and not independent of the relation of employer
 5 and employee.

6 (2) Any condition or impairment of health of a paid
 7 firefighter employed by a municipality, village, or fire
 8 district as a regular member of a lawfully established fire
 9 department that is a result of throat, prostate, rectal, or
 10 pancreatic cancer, leukemia, human immunodeficiency virus,
 11 hepatitis B virus, hepatitis C virus, or tuberculosis that
 12 is caused by the firefighter's contact with toxic substances
 13 or public health hazards in the line of duty is presumed to
 14 be compensable under this chapter and to have been suffered
 15 in the line of duty as the result of employment as a
 16 firefighter if the firefighter:

17 (a) has completed 5 or more years of service as a
 18 firefighter; and

19 (b) is unable to perform the normal duties of a
 20 firefighter because of the disabilities described in this
 21 subsection (2)."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0260, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a presumption that a firefighter impaired with cancer, human immunodeficiency virus, hepatitis B or C, or tuberculosis suffered the impairment in the line of duty and is entitled to compensation under the Occupational Disease Act of Montana.

ASSUMPTIONS:

1. The presumption, created in the bill, will enhance firefighters access to workers' compensation benefits.
2. The State Fund provides coverage for approximately 20% of the estimated 3,043 paid and volunteer firefighters impacted under this bill. The remaining 80% are covered under workers' compensation plans.
3. Based on the statewide incidence of cancer, HIV, and hepatitis (1989 Montana Vital Statistics) there will be an estimated three cancer, one HIV, and two hepatitis B or C, claims received statewide each year under this bill and will be presumed to be caused in the line of duty. Use of the statewide incidence is highly tenuous given the relatively small subpopulation of active firefighters.

FISCAL IMPACT:

Annual medical and indemnity payments made by the State Fund based on the incidence assumed above would be approximately \$338,000 per year. However, this estimate is not based on a thorough actuarial analysis, given the time frame for completion of this fiscal note.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

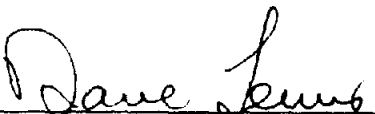
Approximately 80% of the firefighters in the state have workers' compensation coverage through county or other local government. Annual medical and indemnity payments made by the affected carriers based on the incidence assumed above would be approximately \$1,354,400 per year. However, this estimate is not based on a thorough actuarial analysis, given the time frame for completion of this fiscal note.


LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Local governmental entities who cannot sustain the increased exposure without increased revenues may select the State Fund for workers' compensation coverage thus increasing State Fund's expenditures disproportionately over the new revenues.

TECHNICAL NOTES:

Since causality is presumed, the bill should clarify which carrier is responsible for a claim in the event that a claimant is covered by more than one carrier during a career as a firefighter.

 1-26-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

*This Fiscal Note is not based
on fact and should be used for
filing only*
 1-26-93
JERRY DRISCOLL, PRIMARY SPONSOR DATE

Fiscal Note for HB0260, as introduced

HB 260