



February 23, 2016

The Honorable Jay Hottinger
Senate Insurance Committee, Chairman
Ohio Senate
Columbus, OH 43215

Re: SB 27 Firefighter Cancers

Dear Chairman Hottinger:

We write today in opposition to Senate Bill (SB) 27, which provides that a firefighter who is disabled as a result of certain types of cancer is presumed for purposes of the laws governing Worker's Compensation and the Ohio Police and Fire Pension Fund to have incurred the disease while performing official duties as a firefighter.

Let us preface by noting that nobody is being denied care on either side of this debate. The issue is how we will determine whether Workers Compensation or health insurance pays for the treatment of a firefighter who has certain cancers. Senate Bill 27 intends to create a presumption that Workers Compensation should pay for it rather than health insurance.

For over 100 years, Ohio's Workers Compensation has existed solely to cover work related injuries. The narrowness of its focus keeps premiums down and maintains the integrity of the system as one that covers claims of on-the-job injury that employers should take some particular responsibility in. This integrity is essential to the foundation of the system, both fiscally and as a pillar of the agreement between Ohio's employers and the government. By the way, we agree that claims that arise from injuries sustained by employees, whose employer asks them to run into a burning building should be covered by Workers Compensation.

Because Ohio's Workers Compensation system has maintained its integrity for so long, it is a relatively well-funded system. That may be why there have been many attempts to undermine the system, making employers cover more than work related health care needs through the Workers Compensation system.

Here, on its face, Senate Bill 27 undermines the integrity of the Workers Compensation system because it proposes to make employers cover health care needs that are not work related. The reason why is explained below.

Even if firefighters have an escalated correlation with certain cancers, we all know that the epidemic is widespread throughout the general population, not just among firefighters. In fact, it is widespread

enough to undermine any presumption that any and all firefighter's cancers must have been caused on the job.

For purposes of illustration, let us say that firefighters are twice as likely as the general population to get cancer. Also, let us assume that firefighters would have the same rate of cancer as the general public, if not for being firefighters.

According to the American Cancer Institute approximately 66,000 Ohioans were diagnosed with cancer in 2012, which is about 6% of Ohio's population. According to the Bureau of Labor Statistics, there are about 17,780 firefighters in Ohio. That means approximately 1,066 firefighters will get some form of cancer, merely by being Ohioans (not from being firefighters). Under these assumptions, Ohio's Worker's Compensation system (rather than health insurance) would cover over 1,000 firefighters with non-work-related cancer every year. This undermines the integrity of Ohio's Worker's Compensation system.

The current law allows Workers Compensation to cover firefighter cancer. It merely requires a showing that the cancer's cause was work related. In the proponent's most favorable scenario, they can merely show that work conditions cause possibly half of firefighter's cancers.

Suggestion

Tools available for cities and villages to mitigate the risk of exposure to carcinogenic materials are becoming more and more widely available. However, they are expensive. Meanwhile, local government budgets have been decreased widely across Ohio in recent years. The Bureau of Labor Statistics reports substantial decreases in local government employment in recent years, requiring longer hours and more calls for our first responders.

This decreases municipalities' ability to provide the better resources and adequate staffing needed to support our first-responders. We suggest that Ohio maintain a Worker's Compensation system with integrity—one that covers work-related injuries only. However, if non-work-related firefighter cancer is to be covered, then Ohio's state budget should include the funds necessary to cover the premiums. Local governments cannot afford to become general health insurers through the Workers Compensation system.

Lastly, Ohio can provide the relief sought by the proponents of SB 27 without undermining the Workers Compensation system under current law. Employees are given a path to compensation under the existing law. ORC 4123.01 defines “occupational disease” as: “a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the public in general.” ORC 4123.68 then says, “Every employee who is disabled because of the contraction of an occupational disease or the dependent of an employee whose death is caused by an occupational disease, is entitled to the compensation.”

This code section provides a very low standard for firefighter employees to meet. These codes sections are sufficient to give the proponents the relief they seek without making Workers Compensation explicitly cover non-work related injuries.