~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 27, 2010

**S. 362**

Introduced by Senator Alexander

S. Printed 1/27/10--H.

Read the first time April 29, 2009.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 362) to amend Section 42-11-30 of the 1976 Code, relating to firefighters covered under workers’ compensation law and the presumption regarding impairment or injury from heart disease, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, Section 42‑11‑30(A), page 2, line 2, by striking / prior to any alleged injury/ and inserting / before any alleged injury /.

When amended subsection (A) reads:

/ (A) Notwithstanding the provisions of this chapter, for purposes of the South Carolina Workers’ Compensation Law, any impairment or injury to the health of a firefighter caused by heart disease or respiratory disease resulting in total or partial disability or death is presumed to have arisen out of and in the course of employment, unless the contrary is shown by competent evidence, if the firefighter is at the time of such impairment or injury a bona fide member of a municipal, county, state, port authority, or fire control district fire department in this State. In order to be entitled to the presumption provided for in this section, any person becoming a member of a fire department after May 29, 1968, must be under the age of thirty‑seven years and must have successfully passed a physical examination by a competent physician upon entering into such service or within two years of the enactment of this legislation, a written report of which must have been made and filed before any alleged injury with the fire department, which examination failed to reveal any evidence of such condition or conditions, and the condition or conditions developed while actively engaged in fighting a fire or within twenty‑four hours from the date of last service in the activity. /

Amend further, Section 42‑11‑30(B), SECTION 1, beginning on page 2 and line 37, by striking item (2) in its entirety and inserting:

/ (2) If a law enforcement agency cannot produce the report described in subitem (B)(1), the law enforcement officer may submit a written report of a physical examination conducted within two years of the effective date of this section, which includes a risk factor assessment for coronary artery disease conducted by a competent physician who also shall counsel on risk factor reduction and consider current medical literature on evaluation and prevention of coronary artery disease in conducting the risk factor. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER for Committee.

**A** **BILL**

TO AMEND SECTION 42-11-30 OF THE 1976 CODE, RELATING TO FIREFIGHTERS COVERED UNDER WORKERS’ COMPENSATION LAW AND THE PRESUMPTION REGARDING IMPAIRMENT OR INJURY FROM HEART DISEASE AND/OR RESPIRATORY DISEASE, TO PROVIDE THAT THE IMPAIRMENT OR INJURY IS CONSIDERED TO HAVE ARISEN OUT OF AND IN THE COURSE OF EMPLOYMENT IF THEY HAVE SUCCESSFULLY PASSED A PHYSICAL EXAM WITHIN THE LAST TEN YEARS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 42‑11‑30 of the 1976 Code is amended to read:

“Section 42‑11‑30 (A) Notwithstanding the provisions of this chapter, for purposes of the South Carolina Workers’ Compensation Law, any impairment or injury to the health of a firefighter caused by heart disease or respiratory disease resulting in total or partial disability or death is presumed to have arisen out of and in the course of employment, unless the contrary is shown by competent evidence, if the firefighter is at the time of such impairment or injury a bona fide member of a municipal, county, state, port authority, or fire control district fire department in this State. In order to be entitled to the presumption provided for in this section, any person becoming a member of a fire department after May 29, 1968, must be under the age of thirty‑seven years and must have successfully passed a physical examination by a competent physician upon entering into such service or within two years of the enactment of this legislation, a written report of which must have been made and filed prior to any alleged injury with the fire department, which examination failed to reveal any evidence of such condition or conditions, and the condition or conditions developed while actively engaged in fighting a fire or within twenty‑four hours from the date of last service in the activity.

(B)(1) Notwithstanding the provisions of this chapter, for purposes of the South Carolina Workers’ Compensation Law, a cardiac‑related incident resulting in impairment or injury to a law enforcement officer resulting in total or partial disability, or death, is presumed to have arisen out of and in the course of employment if this impairment or injury developed while actively engaged in, or within twenty‑four hours from the date of, a law enforcement incident involving unusual or extraordinary physical exertion, unless the contrary is shown by competent evidence. At the time of the incident, the law enforcement officer must be employed as a law enforcement officer of a municipal, county, state, port authority, or other law enforcement agency in this State. In order to be entitled to the presumption provided by this section, ~~any~~ a person becoming a law enforcement officer ~~on or after the effective date of this section~~, must be under thirty‑seven years of age and upon entering into the service, must have successfully passed a physical examination which includes a risk factor assessment for coronary artery disease conducted by a competent physician who should counsel on risk factor reduction and consider current medical literature on evaluation and prevention of coronary artery disease in conducting the risk factor assessment. A written report of the examination must have been made and filed with the law enforcement agency, which examination must not have revealed evidence of cardiac impairment or injury. If the law enforcement officer is identified as being a high risk for coronary artery disease during the risk factor assessment and the law enforcement officer fails to undergo, at his own expense, additional medical tests related to discovery of coronary artery disease, he is not entitled to the presumption provided by this section.

(2) In the event a law enforcement agency cannot produce the report described in subitem (B)(1), the law enforcement officer may utilize a physical examination by a competent physician within the past two years, which includes a risk factor assessment for coronary artery disease conducted by a competent physician who should also counsel on risk factor reduction and consider current medical literature on evaluation and prevention of coronary artery disease in conducting the risk factor.”

SECTION 2. This act takes effect upon approval by the Governor.

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