

CHAPTER 2019-21

Committee Substitute for Committee Substitute for Senate Bill No. 426

An act relating to firefighters; creating s. 112.1816, F.S.; providing definitions; granting certain benefits to a firefighter upon receiving a diagnosis of cancer if certain conditions are met; requiring an employer to make certain disability payments to a firefighter in the event of a total and permanent disability; providing for death benefits to a firefighter's beneficiary if a firefighter dies as a result of cancer or cancer treatments; specifying that any costs associated with benefits granted by the act must be borne by the employer; specifying that an employer may not increase employee contributions to fund the benefits granted by this act; requiring the Division of State Fire Marshal to adopt certain rules; amending s. 121.735, F.S.; adjusting the allocation of funds to provide line-of-duty death benefits for members in the investment plan of the Florida Retirement System; directing the Division of Law Revision to adjust the employer contribution rates for the Special Risk Class and DROP in the Florida Retirement System; providing a declaration of important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 112.1816, Florida Statutes, is created to read:

112.1816 Firefighters; cancer diagnosis.—

(1) As used in this section, the term:

(a) "Cancer" includes:

1. Bladder cancer.
2. Brain cancer.
3. Breast cancer.
4. Cervical cancer.
5. Colon cancer.
6. Esophageal cancer.
7. Invasive skin cancer.
8. Kidney cancer.
9. Large intestinal cancer.
10. Lung cancer.

11. Malignant melanoma.
12. Mesothelioma.
13. Multiple myeloma.
14. Non-Hodgkin's lymphoma.
15. Oral cavity and pharynx cancer.
16. Ovarian cancer.
17. Prostate cancer.
18. Rectal cancer.
19. Stomach cancer.
20. Testicular cancer.
21. Thyroid cancer.

(b) "Employer" has the same meaning as in s. 112.191.

(c) "Firefighter" means an individual employed as a full-time firefighter within the fire department or public safety department of an employer whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires.

(2) Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers' compensation benefits under chapter 440, if the firefighter has been employed by his or her employer for at least 5 continuous years, has not used tobacco products for at least the preceding 5 years, 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:

(a) Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for any out-of-pocket deductible, copayment, or coinsurance costs incurred due to the treatment of cancer.

(b) A one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer.

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.

(3)(a) If the firefighter participates in an employer-sponsored retirement plan, the retirement plan must consider the firefighter totally and permanently disabled in the line of duty if he or she meets the retirement plan's definition of totally and permanently disabled due to the diagnosis of cancer or circumstances that arise out of the treatment of cancer.

(b) If the firefighter does not participate in an employer-sponsored retirement plan, the employer must provide a disability retirement plan that provides the firefighter with at least 42 percent of his or her annual salary, at no cost to the firefighter, until the firefighter's death, as coverage for total and permanent disabilities attributable to the diagnosis of cancer which arise out of the treatment of cancer.

(4)(a) If the firefighter participated in an employer-sponsored retirement plan, the retirement plan must consider the firefighter to have died in the line of duty if he or she dies as a result of cancer or circumstances that arise out of the treatment of cancer.

(b) If the firefighter did not participate in an employer-sponsored retirement plan, the employer must provide a death benefit to the firefighter's beneficiary, at no cost to the firefighter or his or her beneficiary, totaling at least 42 percent of the firefighter's most recent annual salary for at least 10 years following the firefighter's death as a result of cancer or circumstances that arise out of the treatment of cancer.

(c) Firefighters who die as a result of cancer or circumstances that arise out of the treatment of cancer are considered to have died in the manner as described in s. 112.191(2)(a), and all of the benefits arising out of such death are available to the deceased firefighter's beneficiary.

(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.

(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), respectively, that cancer has, or the circumstances that arise out of the treatment of cancer have, either rendered the firefighter totally and permanently disabled or resulted in the death of the firefighter in the line of duty.

(c) An employer may not increase employee contributions required to participate in a retirement plan or system to fund the costs associated with enhanced benefits provided in subsections (3) and (4).

(6) The Division of State Fire Marshal within the Department of Financial Services shall adopt rules to establish employer cancer prevention best practices as it relates to personal protective equipment, decontamination, fire suppression apparatus, and fire stations.

Section 2. Subsection (3) of section 121.735, Florida Statutes, is amended to read:

121.735 Allocations for member line-of-duty death benefits; percentage amounts.—

(3) ~~Effective July 1, 2017,~~ Allocations from the Florida Retirement System Contributions Clearing Trust Fund to provide line-of-duty death benefits for members in the investment plan and to offset the costs of administering said coverage, are as follows:

Membership Class	Percentage of Gross Compensation
Regular Class	0.05%
Special Risk Class	<u>1.21%</u> 1.15%
Special Risk Administrative Support Class	0.03%
Elected Officers' Class— Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	0.15%
Elected Officers' Class— Justices, Judges	0.09%
Elected Officers' Class— County Elected Officers	0.20%
Senior Management Service Class	0.05%

Section 3. (1) In order to fund the benefit changes provided by this act to the Florida Retirement System, the required employer contribution rates for the members of the Florida Retirement System are increased as follows:

(a) By 0.08 percentage point for the rate established in s. 121.71(4), Florida Statutes, for the Special Risk Class.

(b) By 0.01 percentage point for the rate established in s. 121.71(5), Florida Statutes, for the Special Risk Class.

(c) By 0.02 percentage point for the rate established in s. 121.71(5), Florida Statutes, for DROP.

(2) The adjustments provided in subsection (1) are in addition to any other changes to such contribution rates which may be enacted into law to take effect on July 1, 2019. The Division of Law Revision is directed to adjust accordingly the contribution rates provided in s. 121.71, Florida Statutes.

Section 4. The Legislature determines and declares that this act fulfills an important state interest.

Section 5. This act shall take effect July 1, 2019.

Approved by the Governor May 3, 2019.

Filed in Office Secretary of State May 3, 2019.