

LEGISLATIVE DIGEST

[Administrative Code - Cancer Presumption for Fire and Police Retirement Benefits]

Ordinance amending the Administrative Code to create a cancer presumption for firefighter and police officer industrial disability and death as a result of duty retirement benefits.

Existing Law

Currently, for purposes of applying for industrial disability or death retirement benefits under the San Francisco Employees' Retirement System ("SFERS"), San Francisco firefighters and police officers are entitled to a presumption that any "heart trouble" or pneumonia arises out of and in the course of their employment, unless there is evidence to the contrary. (See Administrative Code Sections 16.85 and 16.86.) There is no comparable cancer presumption for these retirement benefits. In addition, under state law, firefighters and peace officers are entitled to a presumption for purposes of workers' compensation claims that cancer is industrially caused. (See California Labor Code Section 3212.1.)

Amendments to Current Law

The proposed ordinance would create a cancer presumption for sworn members of the Fire Department and Police Department applying to SFERS for industrial disability or death as a result of duty retirement benefits. A sworn member meeting certain eligibility requirements who has cancer that develops or manifests itself while the member is in the service of the Fire Department or Police Department would be entitled to a presumption that the cancer arose out of and in the course of his or her employment. The presumption is disputable and may be controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the cancer.

Background Information

Firefighters and police officers whose retirement benefits are under CalPERS or a public pension plan under the County Employees Retirement Act of 1937 receive the benefit of the workers' compensation cancer presumption under Labor Code Section 3212.1 in connection with those retirement benefits, because the workers' compensation determination of industrial causation (made based on the cancer presumption) is determinative of industrial causation for purpose of the retirement process. The proposed ordinance will give San Francisco firefighters and police officers the benefit of the workers' compensation presumption in the retirement benefit process as is available to those other California firefighters and peace officers.

n:\legana\as2014\1400446\00921784.doc