

CHAPTER 325

GOVERNMENT - LOCAL

SENATE BILL 14-172

BY SENATOR(S) Tochtrop and Newell, Heath, Herpin, Kefalas, Kerr, King, Nicholson, Rivera, Roberts, Todd, Ulibarri, Carroll; also REPRESENTATIVE(S) Kraft-Tharp, McNulty, Becker, Exum, Fields, Garcia, Ginal, Hamner, Kagan, Labuda, Lebsack, May, McCann, Mitsch Bush, Moreno, Pabon, Peniston, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Vigil, Williams, Young.

AN ACT

CONCERNING EMPLOYER-PAID BENEFITS TO A FIREFIGHTER FOR CARDIAC ILLNESSES RESULTING FROM A STRENUOUS WORK EVENT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 3 to article 5 of title 29 as follows:

PART 3
FIREFIGHTER HEART AND CIRCULATORY
MALFUNCTION BENEFITS

29-5-301. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "EMPLOYER" MEANS A MUNICIPALITY, SPECIAL DISTRICT, FIRE AUTHORITY, OR COUNTY IMPROVEMENT DISTRICT THAT EMPLOYS ONE OR MORE FIREFIGHTERS. "EMPLOYER" DOES NOT INCLUDE A POWER AUTHORITY CREATED PURSUANT TO SECTION 29-1-204 OR A MUNICIPALLY OWNED UTILITY.

(2) "FIREFIGHTER" MEANS A FULL-TIME, ACTIVE EMPLOYEE OF AN EMPLOYER WHO REGULARLY WORKS AT LEAST ONE THOUSAND SIX HUNDRED HOURS IN ANY CALENDAR YEAR AND WHOSE DUTIES ARE DIRECTLY INVOLVED WITH THE PROVISION OF FIRE PROTECTION SERVICES.

(3) "HEART AND CIRCULATORY MALFUNCTION" MEANS A SUDDEN AND SERIOUS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MALFUNCTION OF THE HEART AND CIRCULATORY SYSTEM AS OCCURS IN A DIAGNOSIS OF CORONARY THROMBOSIS, CEREBRAL VASCULAR ACCIDENT, MYOCARDIAL INFARCTION, OR CARDIAC ARREST AND THAT MEETS THE REQUIREMENTS OF SECTION 29-5-302 (6). "HEART AND CIRCULATORY MALFUNCTION" DOES NOT INCLUDE HYPERTENSION OR ANGINA.

(4) "VOLUNTEER FIREFIGHTER" MEANS A VOLUNTEER FIREFIGHTER AS DEFINED IN SECTION 31-30-1102, C.R.S.

(5) "WORK EVENT" MEANS STRESSFUL OR STRENUOUS ACTIVITY RELATED TO FIRE SUPPRESSION, RESCUE, HAZARDOUS MATERIAL RESPONSE, EMERGENCY MEDICAL SERVICES, DISASTER RELIEF, OR OTHER EMERGENCY RESPONSE ACTIVITY. "WORK EVENT" INCLUDES A TRAINING ACTIVITY THAT A FIREFIGHTER ENGAGES IN WHILE ON DUTY AND THAT INVOLVES STRESSFUL OR STRENUOUS ACTIVITY.

29-5-302. Required benefits - conditions of receiving benefits. (1) AN EMPLOYER SHALL MAINTAIN ACCIDENT INSURANCE, SELF-INSURE, OR PARTICIPATE IN A SELF-INSURANCE POOL OR A MULTIPLE EMPLOYER HEALTH TRUST IN ORDER TO PROVIDE THE BENEFITS SPECIFIED IN THIS SECTION FOR ITS FIREFIGHTERS. IN ADDITION, AN EMPLOYER MAY PROVIDE EQUIVALENT BENEFITS FOR VOLUNTEER FIREFIGHTERS.

(2) AN EMPLOYER SHALL PROVIDE THE FOLLOWING MINIMUM BENEFITS:

(a) (I) A FOUR-THOUSAND-DOLLAR-LUMP-SUM PAYMENT IF A MEDICAL EXAMINATION REVEALS THAT A FIREFIGHTER HAS A HEART AND CIRCULATORY MALFUNCTION; AND

(II) A ONE-THOUSAND-FIVE-HUNDRED-DOLLAR PAYMENT PER WEEK, UP TO A MAXIMUM OF SEVEN WEEKS, IF A FIREFIGHTER MADE AN EMERGENCY ROOM VISIT AND WAS HOSPITALIZED FOR UP TO FORTY-EIGHT HOURS FOR A HEART AND CIRCULATORY MALFUNCTION;

(b) (I) A TWO-THOUSAND-DOLLAR PAYMENT PER WEEK, UP TO A MAXIMUM OF TWENTY-FIVE WEEKS, IF A FIREFIGHTER MADE AN EMERGENCY ROOM VISIT AND WAS HOSPITALIZED FOR MORE THAN FORTY-EIGHT HOURS FOR A HEART AND CIRCULATORY MALFUNCTION; OR

(II) A TWO-THOUSAND-FIVE-HUNDRED-DOLLAR PAYMENT, UP TO A MAXIMUM OF EIGHTY WEEKS, IF A FIREFIGHTER HAS A HEART AND CIRCULATORY MALFUNCTION THAT PROHIBITS THE FIREFIGHTER FROM RETURNING TO EMPLOYMENT TO A POSITION THAT THE FIREFIGHTER IS TRAINED FOR OR REASONABLY COULD BE TRAINED TO PERFORM;

(c) A PAYMENT OF UP TO TWENTY-FIVE THOUSAND DOLLARS FOR REHABILITATIVE EMPLOYMENT SERVICES RELATING TO A HEART AND CIRCULATORY MALFUNCTION;

(d) A TEN-THOUSAND-DOLLAR PAYMENT IF A FIREFIGHTER INCURS COSMETIC DISFIGUREMENT RESULTING FROM A HEART AND CIRCULATORY MALFUNCTION; AND

(e) IF THE COVERED HEART AND CIRCULATORY MALFUNCTION IS DIAGNOSED AS

TERMINAL, THE FIREFIGHTER WILL RECEIVE A LUMP SUM PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS AS AN ACCELERATED PAYMENT TOWARD THE BENEFITS DUE IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2).

(3) THE RECEIPT OF A PAYMENT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OR SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION DOES NOT PROHIBIT THE FIREFIGHTER FROM RECEIVING AN ADDITIONAL BENEFIT.

(4) IF A FIREFIGHTER RETURNS TO THE SAME POSITION OF EMPLOYMENT AFTER A HEART AND CIRCULATORY MALFUNCTION, THE FIREFIGHTER IS ENTITLED TO THE BENEFITS IN SUBSECTION (2) OF THIS SECTION FOR ANY SUBSEQUENT HEART AND CIRCULATORY MALFUNCTION.

(5) THE MAXIMUM AMOUNT THAT MAY BE PAID TO A FIREFIGHTER FOR EACH HEART AND CIRCULATORY MALFUNCTION IS TWO HUNDRED FIFTY THOUSAND DOLLARS.

(6) THE BENEFITS AND MAXIMUM PAYMENT AMOUNT IN SUBSECTION (2) OF THIS SECTION ARE INCREASED BY THE SAME PERCENTAGE AND AT THE SAME TIME AS ANY FIRE AND POLICE PENSION ASSOCIATION INCREASE IN THE PENSION BENEFIT PAID TO ITS MEMBERS PURSUANT TO SECTION 31-31-407, C.R.S.

(7) (a) THE BENEFITS PAID PURSUANT TO THIS SECTION MUST BE OFFSET BY ANY PAYMENTS MADE:

(I) UNDER THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S.;

(II) BY THE FIRE AND POLICE PENSION ASSOCIATION;

(III) PURSUANT TO SOCIAL SECURITY OR A RETIREMENT PLAN; OR

(IV) AS PART OF ANY OTHER EMPLOYER-PAID INCOME BENEFIT THAT IS MADE AS A RESULT OF A HEART AND CIRCULATORY MALFUNCTION.

(b) THE OFFSETS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (7) APPLY ONLY FROM THE DATE OF THE DETERMINATION OF ENTITLEMENT FOR THE PAYMENTS AND DO NOT REQUIRE THE REPAYMENT OF ANY MONEY RECEIVED PRIOR TO THE DETERMINATION.

(8) THE BENEFITS IN THIS SECTION ARE REDUCED BY TWENTY-FIVE PERCENT IF A FIREFIGHTER SMOKED A TOBACCO PRODUCT WITHIN FIVE YEARS IMMEDIATELY PRECEDING THE WORK EVENT.

(9) IN ORDER FOR A FIREFIGHTER TO BE ELIGIBLE FOR THE BENEFITS IN SUBSECTION (2) OF THIS SECTION, THE FOLLOWING CONDITIONS MUST BE MET:

(a) PRIOR TO THE WORK EVENT THAT RESULTS IN A HEART AND CIRCULATORY MALFUNCTION AND AFTER THE FIREFIGHTER BECAME EMPLOYED BY AN EMPLOYER, THE FIREFIGHTER HAD A MEDICAL EXAMINATION THAT WOULD REASONABLY HAVE FOUND AN ILLNESS OR INJURY THAT COULD HAVE CAUSED THE HEART AND

CIRCULATORY MALFUNCTION AND NO ILLNESS OR INJURY WAS FOUND AT THE MOST RECENT MEDICAL EXAMINATION;

(b) THE FIREFIGHTER HAS AT LEAST FIVE YEARS OF CONTINUOUS, FULL-TIME EMPLOYMENT WITH AN EMPLOYER; EXCEPT A VOLUNTEER FIREFIGHTER MUST HAVE FIVE YEARS OF CONTINUOUS SERVICE WITH THE SAME EMPLOYER; AND

(c) THE HEART AND CIRCULATORY MALFUNCTION OCCURRED DURING OR WITHIN FORTY-EIGHT HOURS AFTER A WORK EVENT.

(10) FOR THE PURPOSE OF EMPLOYER POLICIES AND BENEFITS, A HEART AND CIRCULATORY MALFUNCTION IS TREATED AS AN ON-THE-JOB INJURY OR ILLNESS. THIS SUBSECTION (10) DOES NOT AFFECT ANY DETERMINATION AS TO WHETHER THE HEART AND CIRCULATORY MALFUNCTION IS COVERED UNDER THE "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S.

(11) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE FIREFIGHTER BENEFITS CASH FUND. THE FUND CONSISTS OF MONEYS APPROPRIATED FROM THE GENERAL FUND BY THE GENERAL ASSEMBLY. THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF LOCAL AFFAIRS FOR THE PURPOSE OF REIMBURSING EMPLOYERS FOR THE DIRECT COSTS OF MAINTAINING ACCIDENT INSURANCE, SELF-INSURANCE, OR PARTICIPATION IN A SELF-INSURANCE POOL OR MULTIPLE EMPLOYER HEALTH TRUST AS REQUIRED BY THIS PART 3.

(b) THE DEPARTMENT OF LOCAL AFFAIRS SHALL REIMBURSE EMPLOYERS FOR THE DIRECT COSTS OF MAINTAINING ACCIDENT INSURANCE, SELF-INSURANCE, OR PARTICIPATION IN A SELF-INSURANCE POOL OR MULTIPLE EMPLOYER HEALTH TRUST AS REQUIRED BY THIS PART 3.

(12) IF, AT ANY TIME, THE FUNDING PROVIDED FOR THE BENEFIT REQUIRED BY THIS SECTION IS INSUFFICIENT TO COVER THE COST OF THE BENEFIT, THEN THE REQUIREMENTS OF THIS SECTION TO MAINTAIN THE BENEFIT SHALL BECOME OPTIONAL PURSUANT TO SECTION 29-1-304.5.

SECTION 2. In Colorado Revised Statutes, 10-3-903.5, **amend** (7) (b) introductory portion and (7) (b) (I) as follows:

10-3-903.5. Jurisdiction over providers of health care benefits. (7) (b) A multiple employer health trust is any trust ~~which~~ THAT is:

(I) Sponsored, maintained, and funded by one or more entities of state government or political subdivisions of the state organized pursuant to state law and is for the benefit of the entity's employees, INCLUDING A MULTIPLE EMPLOYER HEALTH TRUST ESTABLISHED FOR THE PURPOSES OF PART 3 OF ARTICLE 5 OF TITLE 29, C.R.S.; or

SECTION 3. In Colorado Revised Statutes, 24-10-115.5, **amend** (9) as follows:

24-10-115.5. Authority for public entities to pool insurance coverage. (9) In addition to liability coverage pursuant to subsection (1) of this section and property

coverage pursuant to section 29-13-102, C.R.S., a self-insurance pool authorized by subsection (1) of this section may provide workers' compensation coverage pursuant to section 8-44-204, C.R.S., AND FIREFIGHTER HEART AND CIRCULATORY MALFUNCTION BENEFITS PURSUANT TO SECTION 29-5-302, C.R.S.

SECTION 4. In Colorado Revised Statutes, 29-13-102, **amend** (7) as follows:

29-13-102. Authority for units of local government to pool insurance coverage. (7) In addition to property coverage pursuant to subsection (1) of this section and liability coverage pursuant to section 24-10-115.5, C.R.S., a self-insurance pool authorized by subsection (1) of this section may provide workers' compensation coverage pursuant to section 8-44-204, C.R.S., AND FIREFIGHTER HEART AND CIRCULATORY MALFUNCTION BENEFITS PURSUANT TO SECTION 29-5-302.

SECTION 5. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of local affairs, for the fiscal year beginning July 1, 2014, the sum of \$53,795 and 0.6 FTE, or so much thereof as may be necessary, to be allocated to the division of local government for the implementation of this act as follows:

- (a) \$32,653 and 0.6 FTE for personal services and operating expenses;
- (b) \$20,960 for the purchase of computer center services; and
- (c) \$182 for the purchase of legal services.

(2) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2014, the sum of \$20,960, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of local affairs related to the implementation of this act. Said sum is from reappropriated funds received from the department of local affairs out of the appropriation made in paragraph (b) of subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2014, the sum of \$182, or so much thereof as may be necessary, for the provision of legal services for the department of local affairs related to the implementation of this act. Said sum is from reappropriated funds received from the department of local affairs out of the appropriation made in paragraph (c) of subsection (1) of this section.

(4) In addition to any other appropriation, for the fiscal year beginning July 1, 2014, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the firefighters benefits cash fund created in section 29-5-302 (1) (a), Colorado Revised Statutes, the sum of \$850,350, and said sum, or so much thereof as may be necessary, is further appropriated to the department of local affairs, for the implementation of this act.

SECTION 6. Effective date. This act takes effect January 1, 2015.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2014