

SUGARMAN & SUSSKIND

PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

Robert A. Sugarman ♦
Howard S. Susskind
Kenneth R. Harrison, Sr.
D. Marcus Braswell, Jr.
Pedro A. Herrera
David Robinson
Ivelisse Berio LeBeau

100 Miracle Mile
Suite 300
Coral Gables, Florida 33134
(305) 529-2801
Broward 327-2878
Toll Free 1-800-329-2122
Facsimile (305) 447-8115

♦ Board Certified Labor
& Employment Lawyer

2019 Legislative Update

Ch. 2019-21, Laws of Florida

On May 5, 2019, Governor DeSantis signed Senate Bill 426 into law. The bill, Chapter 2019-21, Laws of Florida, will take effect on July 1, 2019, and will be codified as Florida Statute 112.1816. The bill provides firefighters who are diagnosed with twenty-one (21) certain forms of cancer eligibility to receive certain additional healthcare, disability and/or death benefits. Specifically, in lieu of pursuing workers' compensation coverage, a firefighter is entitled to cancer treatment and a one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of an applicable enumerated form of cancer.

The new law provides that the term "cancer" includes: bladder cancer, brain cancer, breast cancer, cervical cancer, colon cancer, esophageal cancer, invasive skin cancer, kidney cancer, large intestinal cancer, lung cancer, malignant melanoma, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma, oral cavity and pharynx cancer, ovarian cancer, prostate cancer, rectal cancer, stomach cancer, testicular cancer, and thyroid cancer.

In order to be entitled to such benefits, the firefighter must:

- Be employed full-time as a firefighter;
- Be employed by the state, university, city, county, port authority, special district, or fire control district;
- Have been employed by his or her employer for at least five continuous years;
- Not have used tobacco products for at least the preceding five years; and
- Have not been employed in any other position in the preceding five years, which is proven to create a higher risk for cancer.

Furthermore, under the new statute, the employer must provide coverage within an employer-sponsored health plan or through a group health insurance trust fund. Additionally, the employer must timely reimburse the firefighter for any out-of-pocket deductible, co-payment, or coinsurance costs incurred due to the treatment of cancer. Additionally, if a firefighter has retired or terminated employment and is then diagnosed with cancer, those individuals must have remained on the previous employer's health plan (or health group trust) in order to receive coverage as specified above for up to 10 years after such separation so long as the firefighter otherwise met the criteria specified above when he or she terminated employment and was not subsequently employed as a firefighter following that date.

From a pension plan's perspective, the new law requires the Board of Trustees considering disability and/or death benefit application for firefighter members who either, are found to be disabled from rendering useful and efficient service as a firefighter, or have died as a result of one of the enumerated specified forms of cancer, to presume that such disability or death were suffered in the line of duty.

PLAN OF ACTION

An amendment to your pension plan, and corresponding actuarial impact statement, should be incorporated to account for the new statutory presumptions affecting disability and death benefits afforded by your pension plan. Although the legislature has stated that the fiscal impact on state and local governments employing firefighters is "indeterminate," the Board should seek recommendations from its actuary as to potential impacts to plan assumptions and methodologies.