

AMENDMENTS TO LB 373

Introduced by Judiciary.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 18-1723, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 18-1723 Whenever any firefighter who has served a total
6 of five years as a member of a paid fire department of any city
7 in this state or any police officer of any city or village,
8 including any city having a home rule charter, shall suffer death
9 or disability as a result of hypertension or heart or respiratory
10 defect or disease, there shall be a rebuttable presumption that
11 such death or disability resulted from accident or other cause
12 while in the line of duty for all purposes of Chapter 15, article
13 10, sections 16-1001 to 16-1042, and any firefighter's or police
14 officer's pension plan established pursuant to any home rule
15 charter, the Legislature specifically finding the subject of this
16 section to be a matter of general statewide concern. The rebuttable
17 presumption shall apply to death or disability as a result of
18 hypertension or heart or respiratory defect or disease after the
19 firefighter or police officer separates from his or her applicable
20 employment if the death or disability occurs within three months
21 after such separation. Such rebuttable presumption shall apply
22 in any action or proceeding arising out of death or disability
23 incurred prior to December 25, 1969, and which has not been

1 processed to final administrative or judicial conclusion prior to
2 such date.

3 Sec. 2. Section 35-1001, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 35-1001 (1) For a firefighter or firefighter-paramedic
6 who is a member of a paid fire department of a municipality or a
7 rural or suburban fire protection district in this state, including
8 a municipality having a home rule charter or a municipal authority
9 created pursuant to a home rule charter that has its own paid
10 fire department, and who suffers death or disability as a result
11 of cancer, including, but not limited to, cancer affecting the
12 skin or the central nervous, lymphatic, digestive, hematological,
13 urinary, skeletal, oral, or prostate systems, evidence which
14 demonstrates that ~~(1)~~ (a) such firefighter or firefighter-paramedic
15 successfully passed a physical examination upon entry into such
16 service or subsequent to such entry, which examination failed
17 to reveal any evidence of cancer, ~~(2)~~ (b) such firefighter
18 or firefighter-paramedic was exposed to a known carcinogen, as
19 defined on July 19, 1996, by the International Agency for Research
20 on Cancer, while in the service of the fire department, and
21 ~~(3)~~ (c) such carcinogen is reported by the agency to be a
22 suspected or known cause of the type of cancer the firefighter
23 or firefighter-paramedic has, shall be prima facie evidence that
24 such death or disability resulted from injuries, accident, or other
25 cause while in the line of duty for the purposes of sections
26 16-1020 to 16-1042, a firefighter's pension plan established
27 pursuant to a home rule charter, and a firefighter's pension or

1 disability plan established by a rural or suburban fire protection
2 district.

3 (2) For a firefighter or firefighter-paramedic who
4 is a member of a paid fire department of a municipality or
5 a rural or suburban fire protection district in this state,
6 including a municipality having a home rule charter or a
7 municipal authority created pursuant to a home rule charter
8 that has its own paid fire department, and who suffers death
9 or disability as a result of a blood-borne infectious disease,
10 tuberculosis, meningococcal meningitis, or methicillin-resistant
11 Staphylococcus aureus, evidence which demonstrates that (a)
12 such firefighter or firefighter-paramedic successfully passed a
13 physical examination upon entry into such service or subsequent
14 to such entry, which examination failed to reveal any evidence of
15 such blood-borne infectious disease, tuberculosis, meningococcal
16 meningitis, or methicillin-resistant Staphylococcus aureus, and
17 (b) such firefighter or firefighter-paramedic has engaged in the
18 service of the fire department within ten years before the onset
19 of the disease, shall be prima facie evidence that such death
20 or disability resulted from injuries, accident, or other cause
21 while in the line of duty for the purposes of sections 16-1020 to
22 16-1042, a firefighter's pension plan established pursuant to a
23 home rule charter, and a firefighter's pension or disability plan
24 established by a rural or suburban fire protection district.

25 (3) The prima facie evidence presumed under this
26 section shall extend to death or disability as a result
27 of cancer as described in this section, a blood-borne

1 infectious disease, tuberculosis, meningococcal meningitis, or
2 methicillin-resistant Staphylococcus aureus after the firefighter
3 or firefighter-paramedic separates from his or her service to the
4 fire department if the death or disability occurs within three
5 months after such separation.

6 (4) For purposes of this section, blood-borne
7 infectious disease means human immunodeficiency virus, acquired
8 immunodeficiency syndrome, and all strains of hepatitis.

9 Sec. 3. Original sections 18-1723 and 35-1001, Reissue
10 Revised Statutes of Nebraska, are repealed.