

presumption that that was the cause. The committee has modified that. They have placed a greater burden on the firefighter. They're saying, the committee amendment and my amendment is simply saying that it's prima facie evidence that that's the cause. They're simply saying that on the face of it the firefighter, yes, was out there, he or she was exposed to this type of substance, it's a substance that's known to cause the type of cancer that the firefighter's suffering from or suffered from in the case of death and it's simply recognizing that in statute when it comes to applying the retirement statutes. And I think more than anything else this does two things. Number one, it recognizes what I think we all know to be a fact, the fact that firefighters are in a very hazardous line of work, that they are exposed to substances that present particular problems, one of them and a significant one being exposure to carcinogens. Secondly, it, just from a peace of mind point of view, tells the firefighters, look, we at the state level recognize the line of work you're in; we are willing to acknowledge the fact that this is a very hazardous line of work and that you are exposed to these materials and our retirement statutes ought to reflect that. And, Senator Wickersham, if you would like to comment upon the committee amendment which this embodies, I would give the rest of my time to you.

SPEAKER WITHEM: Senator Wickersham.

SENATOR WICKERSHAM: Thank you, Senator Will, and I...while I was discussing this issue with other members, I think I did hear Senator Will mention that essentially the committee amendment changes the standard from a rebuttable presumption to prima facie evidence. It was out belief that by changing the standard to prima facie evidence that we were giving the firefighter an opportunity to have their day in court but we were not necessarily giving them any other significant legal advantage in the litigation. They would still have a burden of proof, although they could withstand the initial motions which the city might bring to have their case thrown out of court. If there are others here with more significant litigation experience that want to talk to you about the difference between a rebuttable presumption and prima facie evidence, I think you should all listen very carefully to them. They are highly technical concepts in the law. On occasion, it is difficult to tell from the Supreme Court opinions if the Supreme Court makes very clear distinctions between the two standards. But, as I