

- SUBJECT:** Presuming certain firefighter and EMT disabilities to be work related
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 4 ayes — Dutton, Alvarado, Anchia, J. Rodriguez  
3 nays — Elkins, Leach, Sanford
- WITNESSES:** For — Rudy Deleon, Corpus Christi Firefighters Local 936; (*Registered, but did not testify*: Aidan Alvarado, Laredo Fire Fighters Association; David Crow, Arlington Professional Fire Fighters Association; Wayne Delanghe, San Antonio Professional Firefighters Local 624; Mike Higgins, Texas State Association of Fire Fighters; Scott Kerwood, Texas Fire Chiefs Association; Randall Manning, Laredo Fire Fighters Local 872; Randle Meadows, Arlington Police Association; Randy Moreno, Austin Firefighters Association; Carlos Torres, Corpus Christi Fire Fighters Association; Johnny Villarreal, Houston Fire Fighters Local 341)  
  
Against — David Reagan, Texas Municipal League Intergovernmental Risk Pool; (*Registered, but did not testify*: TJ Patterson, City of Fort Worth; Paul Sugg, Texas Association of Counties)  
  
On — Jessica Corna, Texas Department of Insurance-Division of Workers' Compensation
- BACKGROUND:** Government Code, ch. 607, subch. B sets criteria for determining whether certain disabilities or deaths suffered by firefighters or emergency medical technicians occurred within the course and scope of employment for the purposes of benefits or compensation provided under an employment benefit, law, or plan.  
  
Sec. 607.056 presumes that a firefighter or emergency medical technician (EMT) who suffers an acute myocardial infarction, commonly known as a heart attack, or stroke that results in a disability or death occurred within the course and scope of employment if it occurred while the firefighter or EMT was engaged in a non-routine stressful or strenuous physical activity involving an emergency response activity or training exercise.
- DIGEST:** HB 365 would presume that a firefighter or EMT who suffered a heart

attack or stroke resulting in disability or death did so during the course and scope of employment if it occurred while the firefighter or EMT was on duty.

A firefighter or EMT who suffered from HIV/AIDS, hepatitis B, or hepatitis C would be presumed to have contracted the disease or illness during the course and scope of employment if the employee:

- regularly responded on the scene to calls involving exposure to blood or other bodily fluids, including in connection with or exposure to needles or other sharp objects; or
- responded to an event involving the documented release of blood or other bodily fluids known to contain one of the viruses.

A firefighter or EMT who suffered from methicillin-resistant *Staphylococcus aureus* (MRSA) would be presumed to have become infected with the bacterium during the course and scope of the employment if while on duty the employee responded to an event involving documented exposure to MRSA.

These presumptions could be rebutted by showing by a preponderance of the evidence that there was another cause not associated with the individual's service as a firefighter or EMT.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013, and would apply to a claim for benefits or compensation brought on or after that date.

**SUPPORTERS  
SAY:**

HB 365 would better protect firefighters and EMTs by reducing the burdens these public servants face when trying to prove that their injuries or illnesses were work related. These first responders regularly come into contact with infectious diseases such as AIDS, MRSA and hepatitis, but there is currently no presumption that they contracted the illnesses on the job, even if they had recently been exposed to a person who had the disease.

Under current law, a heart attack or stroke suffered by a first responder must occur while he or she is engaged in an emergency response for the work related presumption to apply. However, studies show that firefighters are far more likely to suffer a fatal, sudden cardiac event after

firefighting than while performing non-emergency duties. Because governmental entities have more resources to rebut the presumption than firefighters and EMTs, HB 365 would properly place the presumption with the first responders. By expanding the scope of presumptions, HB 365 would help our firefighters and EMTs receive the employee compensation insurance they deserve and better protect those who protect our communities.

OPPONENTS  
SAY:

HB 365 would create an unnecessary presumption that certain conditions or diseases were work-related and payable under workers' compensation coverage, while requiring only a minimal showing of facts or indicators that the work caused the condition. For example, the bill would create the presumption that a heart attack or stroke suffered by a firefighter was work related if it occurred while he or she was simply on duty, regardless of when the symptoms began or the effect of non-work-related medical issues.

Absence of presumption in state law does not preclude a worker from rightfully getting his or her benefits. Instead, workers' compensation benefits are already paid to firefighter and EMTs whose conditions or diseases are work related, just as they are with all other employees. This bill would increase the number of workers' compensation claims, thereby increasing the cost of insurance for governmental entities, by presuming that some injuries and illnesses were work related based on minimal evidence.