

- SUBJECT:** Determining eligibility for survivor benefits
- COMMITTEE:** Pensions — committee substitute recommended
- VOTE:** 7 ayes — Flynn, Alonzo, Anchia, Hefner, Huberty, Paul, J. Rodriguez
0 nays
- WITNESSES:** For — Matt Bachop and Bob Nicks, Austin Firefighters Association; Elishea Smith, Texas Firefighters; (*Registered, but did not testify:* David Crow, Arlington Professional Fire Fighters; Lynn Eichler and Rob Vires, Austin Fire Fighters Association; Randy Moreno, Austin Firefighters; Johnny Villarreal, Houston Fire Fighters Local 341; Javier Gutierrez, McAllen Firemen's Relief and Retirement Fund; Christopher Steele, San Antonio Professional Firefighters Association; Casey Haney, State Firefighters and Fire Marshals Association; Rene Lara, Texas AFL-CIO; Glenn Deshields, Texas State Association of Fire Fighters; Suzanne Henry, United Labor Legislative Committee; Wayne Delanghe)
- Against — None
- On — (*Registered, but did not testify:* Jimmy Rodriguez, San Antonio Police Officers Association)
- BACKGROUND:** Government Code, ch. 615 qualifies certain survivors of deceased law enforcement officers, firefighters, and other individuals for financial assistance administered by the Employees Retirement System of Texas (ERS) board of trustees. Sec. 615.021 qualifies survivors of law enforcement officers, firefighters, and other individuals for financial assistance if:
- the individual died from a personal injury sustained in the line-of-duty; and
 - the survivor is the surviving spouse, a surviving child if there is no surviving spouse, or a surviving parent if there is no surviving spouse or child.

Observers have noted that the statute lacks clear guidance on whether certain fatal illnesses, particularly cancers, should be included in the ERS board's process for determining eligibility for survivor benefits. Some observers have suggested that including scientific evidence and a treating oncologist's medical opinion in the board's consideration would help inform the board of cancer trends related to a firefighter's exposure to toxic chemicals.

DIGEST:

CSHB 1922 would require the Employees Retirement System of Texas (ERS) board of trustees to consider certain information about individuals who died as a result of a line-of-duty illness when determining a person's eligibility to receive survivor benefits.

In making a determination of payment assistance for deceased individuals who belonged to one of three categories of firefighters — those certified by the Texas Commission on Fire Protection, those whose duties were aircraft crash and rescue firefighting, or members of an organized volunteer firefighting unit — the ERS board would have to consider scientific evidence that established:

- the incidence rate of an individual's illness that was statistically significantly higher than the incidence rate of the illness for the general population; or
- a causal link between the individual's illness and a hazardous condition the individual encountered while performing job duties.

If an individual died from a newly discovered or rare cancer for which current scientific evidence did not exist, the ERS board would have to consider the medical opinion of the individual's treating oncologist.

The bill would prohibit the ERS board from considering an employer's opinion on whether an individual's death resulted from an illness caused by line-of-duty work when determining a survivor's eligibility for financial assistance.

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, 2017, and would apply only to a claim brought on or after that date.

NOTES:

A companion bill, SB 1069 by Hughes, was referred to the Senate Committee on State Affairs on March 7.