

Legislation Text

File #: Ordinance 37-2017, **Version:** 2

Agenda Date: 02/06/2018

Subject:

An ordinance on first reading adopting and entering into the Trust Agreement for the Colorado Firefighter Heart and Cancer Benefits Trust and taking other actions in connection therewith

Presented By: Julie Lanier, Acting HR Director
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POLICY QUESTION:

Does city council support entering into the Trust Agreement for the Colorado Firefighter Heart and Cancer Benefits Trust and taking other actions in connection therewith?

BACKGROUND:

On May 3, 2017, Governor Hickenlooper signed SB 17-214 which allows an employer to participate in a voluntary firefighter cancer benefits program as a multiple employer health trust, to provide benefits to firefighters by paying contributions into the established trust.

The purpose of this statute is to provide supplemental income and reimbursement for out-of-pocket costs not otherwise paid for by insurance coverage to firefighters who contract covered cancers and to reduce the cost of Workers' Compensation insurance for employers of firefighters. This is not a replacement for Workers' Compensation coverage or any other kind of medical insurance. This revised statute does not eliminate or curtail the obligation of an employer of firefighters to participate in the state Workers' Compensation system, nor does it eliminate or curtail the right of a firefighter to pursue benefits under the state Workers' Compensation system. Rather, it provides a practical alternative for firefighters to deal with the costs and burdens of covered cancers without being forced to rely on recovering compensation under the rebuttable presumption created by House Bill 07-1008 (Chapter 187, Section 1 (3) and (4), SB 17-214).

The bill gives local governments the option to join the trust. Should they choose to do so, workers' compensation expenses for these local governments may decrease. The precise impact to local governments will vary across jurisdictions and will depend on a number of factors, including the number of compensable cancer benefit claims they receive from firefighters.

Under this new statute, a firefighter must have at least five years of continuous, full-time employment and be diagnosed with cancer within ten years of ceasing employment as a firefighter.

House Bill 07-1008, enacted in 2007, established a rebuttable presumption in the State Workers' Compensation system that certain types of cancer, when contracted by firefighters, are occupational diseases caused by employment as a firefighter. Nine years of experience has shown that the rebuttable presumption established by House Bill 07-1008 has produced no demonstrable benefit to firefighters but has led to significantly greater costs to employers of firefighters (Chapter 187, Section 1 (1) and (2), SB 17-214).

Pursuant to Chapter 187, 29-5-403- Required benefits - conditions of receiving benefits, the trust shall provide coverage to individuals diagnosed with cancer, based on the award level of the cancer at the time of diagnosis, after the employer becomes a participant. Award levels will be established by the trust based on the category and stage of the cancer as follows:

- a) Award level zero, \$100 up to \$2,000;
- b) Award level one, \$4,000, which shall be paid in addition to the amounts paid for an award level two or higher diagnosis;
- c) Award level two, \$5,000;
- d) Award level three, \$15,000;
- e) Award level four, \$22,500;
- f) Award level five, \$28,125;
- g) Award level six, \$37,500;
- h) Award level seven, \$75,625;
- i) Award level eight, \$84,375;
- j) Award level nine, \$168,750;
- k) Award level ten, \$225,000.

STAFF ANALYSIS:

The City of Littleton operates under the 2007 presumption of cancer legislation, in which it is up to the city to prove that the employee or former employee's cancer is not a direct result of their employment and the associated risks. For example, if an employee makes a cancer claim, the individual does not receive an immediate Workers Compensation payout until an invasive investigation is completed. The city and Workers Compensation attorneys spend time researching prior exposures and investigating prior employment, family history and medical records in order to make a determination. Therefore, the city ends up paying for outside legal costs and expert medical examinations. This is the case whether the employee is active or retired.

Over the last 10 years since the presumption passed in 2007, the city has had seven cancer claims. The average claim cost is \$64,779, resulting in an average cost per year of \$45,345. The Colorado Firefighter Heart and Cancer Benefits Trust is a multiple employer health trust to provide benefits to eligible firefighters by paying contributions into an established trust. An employer participating in the trust will be exempt from the presumptive eligibility mandate for Workers Compensation for firefighters with certain types of cancers. No investigation into the cause of cancer will be needed upon confirmation of eligibility. In order for a firefighter to be eligible for the trust they must be a full time firefighter for five years.

While it would not make sense for a firefighter to file a Workers Compensation claim, by law they still maintain the right to do so. The burden of evidence is on the firefighter to prove that the cancer was job-related. The Cancer Trust would offset Workers Compensation costs in the event a claim was filed.

The Trust provides for limited liability for former employees and is capped at 10 years (currently employees who are retired up to 30 years are eligible to make a claim).

The added benefits of the Trust are faster payouts for firefighters. Payments will start within 10 days of confirmation to the Trust of a diagnosed cancer versus two or more years. There will be no more invasive investigations.

The five covered cancers are: brain, skin, digestive, hematological, or genitourinary.

It should be noted, that the Trust Committee for the Colorado Firefighter Heart and Cancer Benefits Trust has voted unanimously to allow the city to remain an active member of the Trust after merger with South Metro Fire Rescue, upon payment of an annual minimum charge set by the Trust.

OPTIONS/ALTERNATIVES:

Do not join the Colorado Firefighter Heart and Cancer Benefits Trust and continue to operate under the 2007 presumption of cancer legislation.

FISCAL IMPACTS:

March 2018 - December 2018 = \$265 annually per eligible employee (118) = \$26,058.33.

Annual minimum charge is set by the Trust and subject to change as the Trust increases or decreases annual minimum charge.

STAFF RECOMMENDATION:

Staff recommends approval of the Trust Agreement for SB 17-214. Funds for the city to join the trust were included and approved in the 2018 budget.

PROPOSED MOTION:

I move to approve an ordinance on first reading adopting and entering into the Trust Agreement for the Colorado Firefighter Heart and Cancer Benefits Trust and to schedule a second reading and public hearing for February 20, 2018 at 6:30 p.m.