

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 17-0942.01 Kristen Forrestal x4217

SENATE BILL 17-214

SENATE SPONSORSHIP

Smallwood and Garcia,

HOUSE SPONSORSHIP

Exum and Pettersen, Esgar, Pabon

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE VOLUNTARY FIREFIGHTER**
102 **CANCER BENEFITS PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill 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 bill requires the trust to provide benefits to each firefighter based on the cancer diagnosis and award level.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
March 30, 2017

SENATE
Amended 2nd Reading
March 29, 2017

1 *Be it enacted by the General Assembly of the State of Colorado:*
2 **SECTION 1.** In Colorado Revised Statutes, **add** part 4 to article
3 5 of title 29 as follows:
4 PART 4
5 VOLUNTARY FIREFIGHTER CANCER
6 BENEFITS PROGRAM
7 **29-5-401. Legislative declaration.** (1) HOUSE BILL 07-1008,
8 ENACTED IN 2007, ESTABLISHED A REBUTTABLE PRESUMPTION IN THE
9 STATE WORKERS' COMPENSATION SYSTEM THAT CERTAIN TYPES OF
10 CANCER, WHEN CONTRACTED BY FIREFIGHTERS, ARE OCCUPATIONAL
11 DISEASES CAUSED BY EMPLOYMENT AS A FIREFIGHTER.
12 (2) NINE YEARS OF EXPERIENCE HAS SHOWN THAT THE
13 REBUTTABLE PRESUMPTION ESTABLISHED BY HOUSE BILL 07-1008 HAS
14 PRODUCED NO DEMONSTRABLE BENEFIT TO FIREFIGHTERS BUT HAS LED TO
15 SIGNIFICANTLY GREATER COSTS TO EMPLOYERS OF FIREFIGHTERS.
16 (3) THE PURPOSE OF THIS PART 4 IS TO PROVIDE SUPPLEMENTAL
17 INCOME AND REIMBURSEMENT FOR OUT-OF-POCKET COSTS NOT
18 OTHERWISE PAID FOR BY INSURANCE COVERAGE TO FIREFIGHTERS WHO
19 CONTRACT COVERED CANCERS AND TO REDUCE THE COST OF WORKERS'
20 COMPENSATION INSURANCE FOR EMPLOYERS OF FIREFIGHTERS. THIS PART
21 4 IS NOT A REPLACEMENT FOR WORKERS' COMPENSATION COVERAGE OR
22 ANY OTHER KIND OF MEDICAL INSURANCE.
23 (4) THIS PART 4 DOES NOT ELIMINATE OR CURTAIL THE OBLIGATION
24 OF AN EMPLOYER OF FIREFIGHTERS TO PARTICIPATE IN THE STATE
25 WORKERS' COMPENSATION SYSTEM, NOR DOES IT ELIMINATE OR CURTAIL
26 THE RIGHT OF A FIREFIGHTER TO PURSUE BENEFITS UNDER THE STATE

1 WORKERS' COMPENSATION SYSTEM. RATHER, IT PROVIDES A PRACTICAL
2 ALTERNATIVE FOR FIREFIGHTERS TO PURSUE IN DEALING WITH THE COSTS
3 ANDBURDENS OF COVERED CANCERS WITHOUT BEING FORCED TO RELY ON
4 RECOVERING COMPENSATION UNDER THE REBUTTABLE PRESUMPTION
5 CREATED BY HOUSE BILL 07-1008.

6 **29-5-402. Definitions.** AS USED IN THIS PART 4, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "CANCER" MEANS CANCER THAT ORIGINATES AS A CANCER OF
9 THE BRAIN, SKIN, DIGESTIVE SYSTEM, HEMATOLOGICAL SYSTEM, OR
10 GENITOURINARY SYSTEM OR AS DEFINED BY THE TRUST.

11 (2) "COVERED INDIVIDUAL" MEANS A FIREFIGHTER, PART-TIME
12 FIREFIGHTER, OR VOLUNTEER FIREFIGHTER WHO MEETS THE COVERAGE
13 REQUIREMENTS IN SECTION 29-5-403 (12).

14 (3) "EMPLOYER" MEANS A MUNICIPALITY, SPECIAL DISTRICT, FIRE
15 AUTHORITY, OR COUNTY IMPROVEMENT DISTRICT THAT EMPLOYS ONE OR
16 MORE FIREFIGHTERS, PART-TIME FIREFIGHTERS, OR VOLUNTEER
17 FIREFIGHTERS. "EMPLOYER" DOES NOT INCLUDE A POWER AUTHORITY
18 CREATED PURSUANT TO SECTION 29-1-204 OR A MUNICIPALLY OWNED
19 UTILITY.

20 (4) "FIREFIGHTER" MEANS A FULL-TIME, ACTIVE EMPLOYEE OF AN
21 EMPLOYER WHO REGULARLY WORKS AT LEAST ONE THOUSAND SIX
22 HUNDRED HOURS IN ANY CALENDAR YEAR AND WHOSE DUTIES ARE
23 DIRECTLY INVOLVED WITH THE PROVISION OF FIRE PROTECTION SERVICES,
24 AND WHO IS NOT A VOLUNTEER FIREFIGHTER.

25 (5) "PART-TIME FIREFIGHTER" MEANS AN ACTIVE EMPLOYEE OF AN
26 EMPLOYER WHO REGULARLY WORKS LESS THAN ONE THOUSAND SIX
27 HUNDRED HOURS IN ANY CALENDAR YEAR, WHOSE DUTIES ARE DIRECTLY

1 INVOLVED WITH THE PROVISION OF FIRE PROTECTION SERVICES, AND WHO
2 IS NOT A VOLUNTEER FIREFIGHTER.

3 (6) "TRUST" MEANS A MULTIPLE EMPLOYER HEALTH TRUST
4 DESCRIBED IN SECTION 10-3-903.5 (7)(b)(I), ESTABLISHED FOR THE
5 PURPOSES OF THIS PART 4.

6 (7) "VOLUNTEER FIREFIGHTER" MEANS A VOLUNTEER FIREFIGHTER
7 AS DEFINED IN SECTION 31-30-1102, INCLUDING A PERSON MEETING THIS
8 DEFINITION WHO PROVIDES VOLUNTEER SERVICES TO A FIRE AUTHORITY
9 CREATED BY AN INTERGOVERNMENTAL AGREEMENT PROVIDING FIRE
10 PROTECTION.

11 **29-5-403. Required benefits - conditions of receiving benefits.**

12 (1) AN EMPLOYER MAY PARTICIPATE IN THE VOLUNTARY FIREFIGHTER
13 CANCER BENEFITS PROGRAM BY PAYING CONTRIBUTIONS INTO A MULTIPLE
14 EMPLOYER HEALTH TRUST AS SET FORTH IN SECTION 10-3-903.5 (7)(b)(I),
15 ESTABLISHED FOR THE PURPOSES OF THIS PART 4. THE CONTRIBUTION
16 LEVELS AND AWARD LEVEL DEFINITIONS WILL BE SET BY THE TRUST.

17 (2) FOR AN EMPLOYER CHOOSING TO PARTICIPATE IN THE
18 VOLUNTARY FIREFIGHTER CANCER BENEFITS PROGRAM, THE TRUST SHALL
19 PROVIDE THE MINIMUM BENEFITS SPECIFIED IN SUBSECTION (3) OF THIS
20 SECTION TO COVERED INDIVIDUALS DIAGNOSED WITH CANCER, BASED ON
21 THE AWARD LEVEL OF THE CANCER AT THE TIME OF DIAGNOSIS, AFTER THE
22 EMPLOYER BECOMES A PARTICIPANT.

23 (3) AWARD LEVELS WILL BE ESTABLISHED BY THE TRUST BASED ON
24 THE CATEGORY AND STAGE OF THE CANCER AS FOLLOWS:

25 (a) AWARD LEVEL ZERO, ONE HUNDRED DOLLARS UP TO TWO
26 THOUSAND DOLLARS;

27 (b) AWARD LEVEL ONE, FOUR THOUSAND DOLLARS, WHICH SHALL

1 BE PAID IN ADDITION TO THE AMOUNTS PAID FOR AN AWARD LEVEL TWO
2 OR HIGHER DIAGNOSIS;

3 (c) AWARD LEVEL TWO, FIVE THOUSAND DOLLARS;

4 (d) AWARD LEVEL THREE, FIFTEEN THOUSAND DOLLARS;

5 (e) AWARD LEVEL FOUR, TWENTY-TWO THOUSAND FIVE HUNDRED
6 DOLLARS;

7 (f) AWARD LEVEL FIVE, TWENTY-EIGHT THOUSAND ONE HUNDRED
8 TWENTY-FIVE DOLLARS;

9 (g) AWARD LEVEL SIX, THIRTY-SEVEN THOUSAND FIVE HUNDRED
10 DOLLARS;

11 (h) AWARD LEVEL SEVEN, SIXTY-FIVE THOUSAND SIX HUNDRED
12 TWENTY-FIVE DOLLARS;

13 (i) AWARD LEVEL EIGHT, EIGHTY-FOUR THOUSAND THREE
14 HUNDRED SEVENTY-FIVE DOLLARS;

15 (j) AWARD LEVEL NINE, ONE HUNDRED SIXTY-EIGHT THOUSAND
16 SEVEN HUNDRED FIFTY DOLLARS; OR

17 (k) AWARD LEVEL TEN, TWO HUNDRED TWENTY-FIVE THOUSAND
18 DOLLARS.

19 (4) IN ADDITION TO AN AWARD PURSUANT TO SUBSECTION (3) OF
20 THIS SECTION:

21 (a) A PAYMENT IS MADE TO THE COVERED INDIVIDUAL FOR THE
22 ACTUAL COST, UP TO TWENTY-FIVE THOUSAND DOLLARS, FOR
23 REHABILITATIVE OR VOCATIONAL TRAINING EMPLOYMENT SERVICES AND
24 EDUCATIONAL TRAINING RELATING TO THE CANCER DIAGNOSIS;

25 (b) A PAYMENT IS MADE TO THE COVERED INDIVIDUAL OF UP TO
26 TEN THOUSAND DOLLARS IF A COVERED INDIVIDUAL INCURS COSMETIC
27 DISFIGUREMENT COSTS RESULTING FROM CANCER.

1 (5) IF THE CANCER IS DIAGNOSED AS TERMINAL CANCER, THE
2 COVERED INDIVIDUAL WILL RECEIVE A LUMP-SUM PAYMENT OF
3 TWENTY-FIVE THOUSAND DOLLARS AS AN ACCELERATED PAYMENT
4 TOWARD THE BENEFITS DUE IN SUBSECTION (3) OF THIS SECTION.

5 (6) THE COVERED INDIVIDUAL IS ENTITLED TO ADDITIONAL
6 AWARDS IF THE CANCER INCREASES IN AWARD LEVEL, BUT THE AMOUNT
7 OF ANY AWARD PAID EARLIER FOR THE SAME CANCER WILL BE
8 SUBTRACTED FROM THE NEW AWARD.

9 (7) IF A COVERED INDIVIDUAL DIES WHILE OWED BENEFITS
10 PURSUANT TO THIS SECTION, THE BENEFITS WILL BE PAID TO THE
11 SURVIVING SPOUSE OR DOMESTIC PARTNER, IF ANY, AT THE TIME OF
12 DEATH, AND IF THERE IS NO SURVIVING SPOUSE OR DOMESTIC PARTNER,
13 ANY SURVIVING CHILDREN EQUALLY. IF THERE IS NO SURVIVING SPOUSE,
14 DOMESTIC PARTNER, OR CHILD, THE OBLIGATION OF THE TRUST TO PAY
15 BENEFITS WILL CEASE.

16 (8) IF A COVERED INDIVIDUAL RETURNS TO THE SAME POSITION OF
17 EMPLOYMENT AFTER A CANCER DIAGNOSIS, THE COVERED INDIVIDUAL IS
18 ENTITLED TO THE BENEFITS IN THIS SECTION FOR ANY SUBSEQUENT NEW
19 TYPE OF COVERED CANCER DIAGNOSIS.

20 (9) THE MAXIMUM AMOUNT THAT MAY BE PAID TO A COVERED
21 INDIVIDUAL FOR EACH CANCER DIAGNOSIS IS TWO HUNDRED FORTY-NINE
22 THOUSAND DOLLARS.

23 (10) UNLESS THE OFFSET PROVISIONS OF SECTION 8-42-103 (1)(h)
24 HAVE ALREADY BEEN TAKEN, THE BENEFITS PAID PURSUANT TO THIS
25 SECTION MUST BE OFFSET BY ANY PAYMENTS MADE UNDER THE
26 "WORKERS' COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF
27 TITLE 8, REGARDLESS OF WHEN THE PAYMENTS ARE MADE. THE TRUST

1 MAY DETERMINE HOW AND WHEN THE OFFSETS ARE IMPLEMENTED.

2 (11) THE BENEFITS IN THIS SECTION ARE REDUCED BY
3 TWENTY-FIVE PERCENT IF A COVERED INDIVIDUAL USED A TOBACCO
4 PRODUCT WITHIN THE FIVE YEARS IMMEDIATELY PRECEDING THE CANCER
5 DIAGNOSIS.

6 (12)(a) IN ORDER FOR A COVERED INDIVIDUAL TO BE ELIGIBLE FOR
7 THE BENEFITS IN THIS SECTION, PRIOR TO THE DIAGNOSIS OF CANCER AND
8 NO MORE THAN FIVE YEARS FOR A FIREFIGHTER OR NO MORE THAN TEN
9 YEARS FOR A VOLUNTEER FIREFIGHTER OR PART-TIME FIREFIGHTER AFTER
10 THE FIREFIGHTER, VOLUNTEER FIREFIGHTER, OR PART-TIME FIREFIGHTER
11 BECAME EMPLOYED BY AN EMPLOYER, THE FIREFIGHTER, VOLUNTEER
12 FIREFIGHTER, OR PART-TIME FIREFIGHTER MUST HAVE HAD A MEDICAL
13 EXAMINATION THAT WOULD REASONABLY HAVE FOUND AN ILLNESS OR
14 INJURY THAT COULD HAVE CAUSED THE CANCER AND NO ILLNESS OR
15 INJURY WAS FOUND.

16 (b) IN ADDITION TO SUBSECTION (12)(a) OF THIS SECTION, IN
17 ORDER FOR A COVERED INDIVIDUAL TO BE ELIGIBLE FOR THE BENEFITS IN
18 THIS SECTION, THE FOLLOWING CONDITIONS MUST BE MET:

19 (I) THE FIREFIGHTER:

20 (A) HAS AT LEAST FIVE YEARS OF CONTINUOUS, FULL-TIME
21 EMPLOYMENT WITH AN EMPLOYER; AND

22 (B) IS DIAGNOSED WITH CANCER WITHIN TEN YEARS AFTER
23 CEASING EMPLOYMENT AS A FIREFIGHTER; OR

24 (II) THE VOLUNTEER FIREFIGHTER:

25 (A) HAS AT LEAST TEN YEARS OF ACTIVE SERVICE, AS USED IN
26 SECTION 31-30-1122, AND HAS MAINTAINED A MINIMUM TRAINING
27 PARTICIPATION IN THE FIRE DEPARTMENT OF THIRTY-SIX HOURS EACH

1 YEAR; AND

2 (B) IS DIAGNOSED WITH CANCER WITHIN TEN YEARS AFTER
3 CEASING EMPLOYMENT AS A VOLUNTEER FIREFIGHTER; OR

4 (III) THE PART-TIME FIREFIGHTER:

5 (A) HAS AT LEAST TEN YEARS OF ACTIVE SERVICE; AND

6 (B) IS DIAGNOSED WITH CANCER WITHIN TEN YEARS AFTER
7 CEASING EMPLOYMENT AS A PART-TIME FIREFIGHTER.

8 (c) THE TRUST SHALL DEVELOP A FORMULA TO ALLOW THE
9 COMBINING OF VOLUNTEER, PART-TIME, AND FULL-TIME FIREFIGHTER
10 SERVICE TO ESTABLISH ELIGIBILITY.

11 (d) THE CLAIM FOR BENEFITS MUST BE FILED NO LATER THAN TWO
12 YEARS AFTER THE DIAGNOSIS OF THE CANCER. THE CLAIM FOR EACH TYPE
13 OF CANCER NEEDS TO BE FILED ONLY ONCE TO ALLOW THE TRUST TO
14 INCREASE THE AWARD LEVEL PURSUANT TO SUBSECTION (3) OF THIS
15 SECTION.

16 (13) FOR THE PURPOSE OF EMPLOYER POLICIES AND BENEFITS,
17 A CANCER DIAGNOSIS IS TREATED AS AN ON-THE-JOB INJURY OR ILLNESS.
18 THIS SUBSECTION (13) DOES NOT AFFECT ANY DETERMINATION AS TO
19 WHETHER THE CANCER IS COVERED UNDER THE "WORKERS'
20 COMPENSATION ACT OF COLORADO", ARTICLES 40 TO 47 OF TITLE 8.

21 **29-5-404. Authority of the trust - rules.** (1) IN ADDITION TO ANY
22 AUTHORITY GIVEN TO THE TRUST, THE TRUST HAS THE AUTHORITY TO:

23 (a) CREATE A PROGRAM DESCRIPTION TO FURTHER DEFINE OR
24 MODIFY, BUT NOT DECREASE, THE BENEFITS OF THIS PART 4;

25 (b) MODIFY THE CONTRIBUTION RATES, BENEFIT LEVELS,
26 INCLUDING THE MAXIMUM AMOUNT, CONSISTENT WITH SUBSECTION (1)(a)
27 OF THIS SECTION, AND STRUCTURE OF THE BENEFITS BASED ON ACTUARIAL

1 RECOMMENDATIONS AND WITH INPUT FROM A COMMITTEE OF THE TRUST
2 CONSISTING OF REPRESENTATIVES FROM LABOR, MANAGEMENT,
3 VOLUNTEER, AND TRUST ADMINISTRATION; AND

4 (c) ADOPT RULES AND PROCEDURES FOR THE ADMINISTRATION OF
5 THE TRUST.

6 **29-5-405. Exclusion from coverage.** AN EMPLOYER WHO
7 PARTICIPATES IN THE VOLUNTARY FIREFIGHTER CANCER BENEFITS
8 PROGRAM CREATED IN THIS PART 4 IS NOT SUBJECT TO SECTION 8-41-209
9 (1) AND (2) UNLESS THE EMPLOYER ENDS PARTICIPATION IN THE PROGRAM.

10 **SECTION 2.** In Colorado Revised Statutes, 8-41-209, **add** (4) as
11 follows:

12 **8-41-209. Coverage for occupational diseases contracted by**
13 **firefighters.** (4) AN EMPLOYER WHO PARTICIPATES IN THE VOLUNTARY
14 FIREFIGHTER CANCER BENEFITS PROGRAM CREATED IN PART 4 OF ARTICLE
15 5 OF TITLE 29 IS NOT SUBJECT TO THIS SECTION UNLESS THE EMPLOYER
16 ENDS PARTICIPATION IN THAT PROGRAM.

17 **SECTION 3.** In Colorado Revised Statutes, 8-42-103, **add** (1)(h)
18 as follows:

19 **8-42-103. Disability indemnity payable as wages - period of**
20 **disability.** (1) If the injury or occupational disease causes disability, a
21 disability indemnity shall be payable as wages pursuant to section
22 8-42-105 (2)(a) subject to the following limitations:

23 (h) UNLESS THE OFFSET PROVISIONS OF SECTION 29-5-403 (10)
24 HAVE ALREADY BEEN TAKEN, IN CASES WHERE IT IS DETERMINED THAT A
25 FIREFIGHTER HAS RECEIVED AN AWARD OF BENEFITS FOR A CANCER
26 DIAGNOSIS PURSUANT TO SECTION 29-5-403 (3)(b) TO (3)(k), THE
27 AGGREGATE BENEFITS PAYABLE FOR TEMPORARY TOTAL DISABILITY,

1 TEMPORARY PARTIAL DISABILITY, PERMANENT PARTIAL DISABILITY, AND
2 PERMANENT TOTAL DISABILITY SHALL BE REDUCED, BUT NOT BELOW ZERO,
3 BY AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF SUCH CANCER
4 DIAGNOSIS BENEFITS. IN CASES WHERE IT IS DETERMINED THAT A COVERED
5 INDIVIDUAL HAS RECEIVED COSMETIC DISFIGUREMENT BENEFITS
6 PURSUANT TO SECTION 29-5-403 (4)(b), BENEFITS FOR DISFIGUREMENT
7 PAYABLE PURSUANT TO SECTION 8-42-108 SHALL BE REDUCED, BUT NOT
8 BELOW ZERO, BY AN AMOUNT EQUAL TO SUCH COSMETIC DISFIGUREMENT
9 BENEFITS.

10 **SECTION 4.** In Colorado Revised Statutes, 10-3-903.5, **amend**
11 (7)(b)(I) as follows:

12 **10-3-903.5. Jurisdiction over providers of health care benefits.**

13 (7) (b) A multiple employer health trust is any trust that is:

14 (I) Sponsored, maintained, and funded by one or more entities of
15 state government or political subdivisions of the state organized pursuant
16 to state law and is for the benefit of the entity's employees, including a
17 multiple employer health trust established for the purposes of ~~part 3~~ PART
18 3 OR 4 of article 5 of title 29; ~~C.R.S.~~; or

19 **SECTION 5. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.