



Testimony of Joe Damiata
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Vermont League of Cities and Towns
Testimony on H.917

**An act relating to expanding workers' compensation coverage
for firefighters with cancer**

Vermont House Committee on Commerce and Economic Development
February 28, 2020

I. Introductions.

- The Vermont League of Cities and Towns Property and Casualty Intermunicipal Fund (“VLCT PACIF” or “PACIF”) is a nonprofit, member owned, Intermunicipal Insurance Agreement (risk pool) regulated by the Department of Financial Regulation under Regulation I-90.
- We are owned and governed by Vermont municipalities and 100% funded by municipal budgets, and all assets are owned by the members.
- We were formed by the VLCT membership in 1986 when municipalities faced an insurance crisis due to commercial insurers pulling out of the public entity insurance market. PACIF has offered workers compensation coverage since 1990.
- VLCT PACIF provides property, liability and workers' compensation coverage to over 350 (about 94% of eligible entities) Vermont municipal entities.
- We put great emphasis on risk management, including many innovative programs (see section II). We have six employees in our loss control department made up of a former Police Chief (Trevor Whipple), an HR Professional, three loss control consultants (2 of which are volunteer firefighters), and an admin assistant.
- PACIF currently covers ten career fire departments and places 130 volunteer departments in the state workers' compensation assigned risk program due to the inability to collect enough contribution for the exposures volunteer fire departments present.
- The ten career departments PACIF covers account for \$1.95 million in workers' compensation contribution (premium) or about 14% of the total annual workers' compensation contribution collected by PACIF, but only make up about 5% of the payroll, which is how workers comp is rated.
- We have received seven cancer presumption claims since 2016. We have denied some because they have not met the current presumption elements (type of cancer, smoking, age, length of service etc.). When cancer presumption claims meet the statutory requirements for compensability, they cost municipalities a lot of money (see next bullet).

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- Our 2nd largest claim on the books is a pancreatic cancer presumption claim with a total (incurred) value of \$1.8 million.
- All claims are handled in-house by Vermont state licensed adjusters.

II. VLCT PACIF is very supportive of firefighters, as evidenced by the following risk management and loss control programs:

- VLCT PACIF provides free access to an Employee Assistance Program for career firefighters and funds EAPFirst, which provides mental wellness and related services to all first responders, including firefighters.
- PACIF has a 50/50 matching grant program that provides member municipalities with up to \$5,000. Numerous fire departments have taken advantage of this funding to obtain safety related equipment for their firefighters. Since 2016, PACIF has provided \$165,000 in grants to fire departments which helped purchase turnout gear, SCBA's, traffic control equipment (lighting, sign packages, cones, etc.) and other important safety equipment.
- PACIF offers a scholarship program that provides free funding to municipalities for risk management and safety training. In the past three years we have provided \$15,000 in scholarships that benefits firefighters. Some examples of training include Aerial Apparatus training, Respect in Workplace, and Game of Logging (chainsaw and storm cleanup safety).
- PACIF offers a mental wellness scholarship program that provides funding for
- PACIF loss control consultants regularly provide safety support and consultation to fire departments on a range of matters including, but not limited to: respiratory protection, medical evaluations, breathing air safety, driver qualifications, hiring and personnel issues, Jr. firefighter programs, incident scene flagger training, and safe emergency vehicle operations training.

III. We have questions and concerns about expanding the current workers compensation cancer presumption law:

- Why is cancer presumption embedded in workers' compensation and not set-up as a separate fund similar to Georgia, South Carolina, and Colorado? Since firefighters are being exposed to toxins from burning properties and vehicles, an alternative approach to providing benefits might be to create a dedicated benefit, or purchase insurance coverage, that would be funded by collecting a percentage of commercial and personal insurance premiums. Similar funds from unique funding sources could be set-up for other presumptions as well.
- What studies are being cited that show that all firefighter cancers are work-related? Are the studies controlled and randomized for the most reliable results? What geographical areas have these studies been performed in? Are the areas in the study similar in size and call volume to Vermont departments? The concern here is that Vermont firefighter exposures may vary significantly from departments that served as the source data for firefighter cancer prevalence studies. Lastly, in our experience working with Vermont fire

departments, the majority of department calls are to motor vehicle accidents – not structure or vehicle fires.

- Workers compensation was developed to protect employees when they experience a work-related injury or illness. This bill as written would most certainly mandate coverage of cancers that did not arise from firefighting activities.
- Has a cost analysis been completed by NCCI to see how this new bill would affect Vermont workers compensation rates for the firefighter class codes, and specifically how this would affect Vermont municipal budgets?
- Is there potential for the financial impacts of the automatic, no limits cancer presumption to adversely affect the willingness of commercial insurance carriers to provide voluntarily offer workers' compensation coverage for this class?
- Are employers going to be allowed to pre-screen prospective fire fighters or would this be against law/rules EEOC, ADA, GINA Etc.
- Will there be a mechanism to differentiate between the frequency and severity of exposure amongst firefighters, since some serve part time and have limited or no fire call exposure as volunteers.
- Should fire departments track fire calls with potential exposure, who went, duration, etc?
- Will there be limitations or exclusions for poor health behaviors that the firefighter may engage in that would exacerbate cancer risk? For example, smoking, alcohol use, drugs, diet, sun exposure etc.?
- Will there be length of service requirements?
- Can there be exceptions relating to appropriate, or inappropriate equipment use?
- Will it still be a rebuttable presumption?
- Why is there no age cap, when it is clear that cancer risk increases with age in the general population?
- Will prior or current work experience come into play?
- Firefighters often work or volunteer with multiple departments: If a specific exposure is not known or identified, how should it be determined which department is responsible for the cancer that has developed? Should it be split between the multiple statutory employers? Is it based on number of hours or shifts worked to splice out the percentage? Is it 50%-50%?
- This bill as written would eliminate firefighter cancers from conventional health insurance, Medicaid, or Medicare, and place the financial costs onto workers' compensation rates which are directly paid by each municipality. Despite the removal of firefighter cancers from health insurance coverage, health insurance premiums will likely continue to increase, as will workers compensation premiums.