

Amendment to HB 1494-FN

1 Amend the title of the bill by replacing it with the following:

2  
3 AN ACT adopting omnibus legislation concerning workers.  
4

5 Amend the bill by replacing all after the enacting clause with the following:  
6

7 1 Repeal. RSA 281-A:17, I(c), relative to the length of time the presumption of heart or lung  
8 disease in members of fire departments is occupationally related, is repealed.

9 2 New Subdivision; Safety and Health of Employees; Occupational Safety and Health Standards  
10 Advisory Board Established. Amend RSA 277 by inserting after section 38 the following new  
11 subdivision:

12 Occupational Safety and Health Standards

13 277:39 Occupational Safety and Health Standards Advisory Board Established.

14 I. There is established an occupational safety and health standards advisory board to  
15 consult with and advise the labor commissioner on the adoption and enforcement of occupational  
16 safety and health standards for public employees.

17 II.(a) The advisory board shall consist of the following members:

18 (1) Three representatives of public employers, appointed by the governor, one of  
19 whom shall represent state agencies, one of whom shall represent counties, and one of whom shall  
20 represent municipalities.

21 (2) Three representatives of public employees, appointed by the governor, one of  
22 whom shall represent state employees, one of whom shall represent school employees, and one of  
23 whom shall represent municipal employees.

24 (3) One representative of an insurance company licensed to insure workers'  
25 compensation within the state, appointed by the governor.

26 (4) One representative of Keene State WorkWISE NH, appointed by that  
27 organization.

28 (5) Two members of the public, appointed by the governor.

29 (6) One member of the house of representatives, appointed by the speaker of the  
30 house of representatives.

31 (b) The legislative member shall receive mileage at the legislative rate when attending  
32 to the duties of the advisory board. The legislative member shall serve a term coterminous with his

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1 or her term in office. The remaining members shall serve 4-year terms, except that the initial  
2 appointments shall be staggered in the following manner. Three members shall be appointed for an  
3 initial term of 2 years, 3 members shall be appointed for an initial term of 3 years, and 3 members  
4 shall be appointed for an initial term of 4 years. Each member shall hold office until a successor is  
5 duly appointed and qualified. Any vacancy shall be filled for the remainder of the unexpired term in  
6 the same manner as the original appointment.

7 (c) The members of the advisory board shall biennially elect a chairperson from among  
8 the members. The first meeting of the advisory board shall be called by the member appointed to  
9 represent state agencies. The first meeting of the advisory board shall be held within 45 days of the  
10 effective date of this section. Six members of the advisory board shall constitute a quorum.

11 III. The advisory board shall:

12 (a) Consult with the labor commissioner and the Region 1 Office for the Occupational  
13 Safety and Health Administration on the development and submission of a state plan for  
14 occupational safety and health standards to the United States Secretary of Labor pursuant to 29  
15 U.S.C. section 667 and 29 C.F.R. section 1902.3.

16 (b) Review state and local government employee plans from other states, including  
17 Maine, Illinois, New Jersey, Connecticut, and New York, and consult with the Occupational Safety  
18 and Health State Plan Association regarding the process for establishing and administering a state  
19 plan for New Hampshire's public employees.

20 (c) Evaluate injury and illness data, recommend training and implementation of safety  
21 and health measures, monitor the effectiveness of safety and health programs, and determine where  
22 additional resources are needed to protect the safety and health of public employees.

23 IV. Beginning November 1, 2020, and each November 1 thereafter, the advisory board shall  
24 report its findings and any recommendations for proposed legislation to the speaker of the house of  
25 representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the  
26 state library.

27 277:40 Adoption of Occupational Safety and Health Standards.

28 I. Each employer, as defined in RSA 277:1-b, II, shall provide employees, as defined in RSA  
29 277:1-b, I, at least the level of protection provided under the federal Occupational Safety and Health  
30 Act of 1970, 29 U.S.C. section 651, et seq., including standards and the provision of the general duty  
31 clause in 29 U.S.C. section 654.

32 II. The labor commissioner, in consultation with the advisory board established in RSA  
33 277:39, shall adopt rules under RSA 541-A relative to the protections required under this section.

34 3 Contingency. RSA 277:40, as inserted by section 2 of this act, shall take effect on the date the  
35 labor commissioner certifies to the director of legislative services that the Occupational Safety and  
36 Health Administration has approved a state plan for the protection of public employees pursuant to  
37 the Occupational Safety and Health Act of 1970.

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1       4 Death Benefit; Employees Killed in the Line of Duty; Public Works Employee Added. Amend  
2 the section heading and paragraphs I through the introductory paragraph of III of RSA 21-I:29-a to  
3 read as follows:

4       21-I:29-a Death Benefit for ~~[Police Officer or Firefighter]~~ **Employees** Killed in Line of Duty.

5       I. In this section:

6           (a) "Adult child" means a child, whether by blood or adoption, of the police officer,  
7 firefighter, emergency medical technician, ~~[or]~~ rescue squad member, **or public works employee**  
8 age 18 or older at the time of death of such police officer, firefighter, emergency medical technician,  
9 ~~[or]~~ rescue squad member, **or public works employee** and who does not meet the definition of a  
10 dependent child.

11           (b) "Dependent child" means a child, whether by blood or adoption, of the police officer,  
12 firefighter, emergency medical technician, ~~[or]~~ rescue squad member, **or public works employee**  
13 who:

14               (1) Is under the age of 25 and was dependent on the earnings of the police officer,  
15 firefighter, emergency medical technician, ~~[or]~~ rescue squad member, **or public works employee** at  
16 the time of death. For the purposes of this subparagraph, a child is not considered dependent if the  
17 child provides more than half of his or her own support, is married, or is legally adopted by another;  
18 or

19               (2) Is any age and is physically or mentally incapacitated and was dependent on the  
20 earnings of the police officer, firefighter, emergency medical technician, ~~[or]~~ rescue squad member,  
21 **or public works employee** at the time of death.

22           (c) "Family" means the surviving spouse of the police officer, firefighter, emergency  
23 medical technician, ~~[or]~~ rescue squad member, **or public works employee** who was wholly or  
24 partially dependent, in fact, upon the earnings of the police officer, firefighter, emergency medical  
25 technician, rescue squad member, **or public works employee** or, if there is no surviving spouse, the  
26 surviving dependent child or dependent children, of such police officer ~~[or]~~, firefighter, **emergency**  
27 **medical technician, rescue squad member, or public works employee** or, if there is no  
28 surviving dependent child, a surviving person qualifying as a common-law spouse pursuant to RSA  
29 457:39, or if there is no surviving common-law spouse, the surviving adult child or adult children, or  
30 if there is no surviving adult child or adult children, the surviving parent or parents of such police  
31 officer, firefighter, emergency medical technician, ~~[or]~~ rescue squad member, **or public works**  
32 **employee**.

33           (d) "Emergency medical technician" means all levels of emergency medical technician,  
34 including emergency medical responders, emergency medical technicians, advanced emergency  
35 medical technicians, and paramedics, whether auxiliary, intermittent, special, part-time, volunteer,  
36 call, or reserve, who is employed by a city, town, village district, or precinct within the state of New  
37 Hampshire, or any emergency medical technician who is a volunteer for or employed by a nonprofit

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corporation in New Hampshire, or any emergency medical technician employed by a New Hampshire licensed private ambulance service while in the performance of emergency medical services pursuant to RSA 153-A:2, VI either under contract or agreement with a city, town, village, or precinct.

(e) "Firefighter" means any firefighter, including auxiliary, intermittent, special, part-time, volunteer, call, or reserve firefighters who are employed by a city, town, village district, or precinct within the state of New Hampshire, any firefighter employed by the state of New Hampshire, or any firefighter who is a volunteer for or employed by a non-profit corporation which is the primary provider of fire protection for all or part of a New Hampshire municipality.

(f) "Killed in the line of duty" means a death of a police officer, firefighter, emergency medical technician, [ø] rescue squad member, **or public works employee** while in the performance of his or her duties as a result of incident, accident, or violence causing death or injuries which are the direct or proximate cause of death. "Incident" shall include any death that is determined to be occupationally related by the worker's compensation insurance carrier, a self-insured worker's compensation plan, or by the labor commissioner for workers' compensation purposes pursuant to RSA 281-A.

(g) "Police officer" means any law enforcement officer with the power of arrest, including auxiliary, intermittent, special, part-time, or reserve police officers, or sheriffs and their deputies who are employed by a city, town, village district, county, or precinct within the state of New Hampshire, police officers employed by the university system of New Hampshire, court security officers and bailiffs, and any state law enforcement officer employed by the state of New Hampshire who has power of arrest as determined by state law.

(h) **"Public works employee" means any municipal or state public works or highway employee who has the responsibility to work in hazardous locations, or as a first responder, or in conjunction with emergency first responders in construction zones, highway traffic areas, and other locations where the public works or highway employee is exposed to risk of injury or fatality from construction hazards, highway traffic volume and speed, nighttime responses, environmental issues, weather, or other hazardous conditions.**

(i) "Rescue squad member" means any member of a rescue squad formed for the purposes of responding to a state of emergency as declared by the governor or as part of a search and rescue effort under the supervision of the fish and game department to recover a lost person.

II. In addition to any other benefits provided under this chapter, the state treasurer shall pay a \$100,000 death benefit to the family of a police officer, firefighter, emergency medical technician, [ø] rescue squad member, **or public works employee** killed in the line of duty. Payment to a dependent child under the age of 18 shall be made to the child's trustee for the benefit of the child. The governor, with the consent of the executive council, is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

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1           III. The commissioner of safety, upon notice from the family or chief of department of any  
2 firefighter, police officer, emergency medical technician, ~~[or]~~ rescue squad member, **or public works**  
3 **employee** who may be entitled to a line-of-duty death benefit or upon the commissioner's own  
4 initiative, shall obtain the available records related to the circumstances, cause, and manner of such  
5 death and the decedent's status as a firefighter, police officer, emergency medical technician, ~~[or]~~  
6 rescue squad member, **or public works employee** may cause further inquiry to be made, and shall  
7 make a determination of whether the death qualifies as a line-of-duty death and who is entitled to  
8 the death benefit. The determination shall be made within 180 days of the determination of the  
9 cause and manner of death by the office of the chief medical examiner, or within 180 days from the  
10 date the commissioner received notice from the family or chief of department of the firefighter, police  
11 officer, emergency medical technician, ~~[or]~~ rescue squad member, **or public works employee**  
12 whichever is later. For deaths that are not reviewed by the office of the chief medical examiner, the  
13 determination shall be made within 180 days of a determination that the decedent qualifies for a  
14 workers' compensation death benefit by a worker's compensation carrier, self-insured worker's  
15 compensation plan, or the labor commissioner pursuant to RSA 281-A, or within 180 days from the  
16 date the commissioner received notice from the family or chief of department of the firefighter, police  
17 officer, emergency medical technician, ~~[or]~~ rescue squad member, **or public works employee**  
18 whichever is later.

19           5 Retirement System; Accidental Death Benefits; Workers' Compensation Offset. Amend RSA  
20 100-A:8, III and IV to read as follows:

21           III. Workers' Compensation. ~~[Notwithstanding the foregoing provisions of this section and~~  
22 ~~except for payments made under RSA 281-A:37, any amounts which may be paid or payable under~~  
23 ~~the provisions of any workers' compensation or similar law on account of the death of any member~~  
24 ~~shall, in such manner as the board of trustees shall determine, be offset against and payable in lieu~~  
25 ~~of any state annuity payable under the provisions of this section on account of the same death. Any~~  
26 ~~amounts offset above shall not include compensation received to pay hospital or medical bills under~~  
27 ~~any private annuity or disability insurance plan.~~

28           IV. ~~The offset provisions of paragraph III shall not apply in the case of a group II member~~  
29 ~~who dies as the natural and proximate result of injuries received while in the performance of his~~  
30 ~~duty. In this case]~~ Any amounts paid or payable under the provisions of any workers' compensation  
31 or similar law on account of the death of the member shall not be offset against or payable in lieu of  
32 any state annuity payable under the provisions of this section on account of the same death.

33           6 New Paragraph; Public Employer Labor Relations; Elections. Amend RSA 273-A:10 by  
34 inserting after paragraph IX the following new paragraph:

35           X. The board shall certify, and the public employer shall recognize as the exclusive  
36 representative, an employee organization which has received a written majority authorization for  
37 the purpose of collective bargaining for all of the employees in the bargaining unit.

7 Bargaining by State Employees. Amend RSA 273-A:9, I to read as follows:

I. All cost items and terms and conditions of employment affecting state employees in the classified system generally shall be negotiated by the state, represented by the governor as chief executive, with a single employee bargaining committee comprised of exclusive representatives of all interested bargaining units. Negotiations regarding terms and conditions of employment unique to individual bargaining units shall be negotiated individually with the representatives of those units by the governor. ***Nothing in this chapter shall be construed to limit an individual bargaining unit from negotiating wages, terms, and conditions specific to that bargaining unit, nor shall any bargaining unit be forced into impasse proceedings due to the declaration of impasse by another bargaining unit.***

8 Effective Date.

I. RSA 277:40, as inserted by section 2 of this act, shall take effect as provided in section 3 of this act.

II. The remainder of this act shall take effect upon its passage.

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2020-1346s

AMENDED ANALYSIS

This bill:

I. Repeals the length of time the presumption of heart or lung disease is occupationally related for firefighters.

II. Establishes an occupational safety and health advisory board to advise the labor commissioner on the adoption and enforcement of occupational safety and health standards for public employees. The bill also requires public employers to provide employees with at least the level of protection provided under the federal Occupational Safety and Health Act, contingent upon federal approval of a state plan.

III. Establishes a state death benefit for a municipal or state public works employee killed in the line of duty. The bill also eliminates the offset for workers' compensation benefits applicable to group I accidental death benefit annuities in state retirement system.

IV. Requires the public employee labor relations board to certify an employee organization which receives a majority written authorization for the purpose of collective bargaining. The bill also requires a public employer to recognize such employee organization as the exclusive representative for collective bargaining.

V. Provides that an individual bargaining unit may negotiate wages, terms, and conditions specific to that bargaining unit and that an individual bargaining unit shall not be forced into impasse proceedings by the declaration of impasse by another bargaining unit.