

**October 1, 2006 – /Town of Markham Council Meeting**

**SUBJECT: MOTION TO REQUEST A REVIEW OF ONTARIO'S  
*WORKPLACE SAFETY AND INSURANCE ACT* – FIREFIGHTERS  
ILLNESS OR DISEASE**

**Moved by Councilor**

**WHEREAS** firefighters provide an invaluable service to the public and may risk their own personal safety in order to protect the lives of residents of the City of Ottawa;

**AND WHEREAS** studies have shown that firefighters suffer from an incidence of some cancers and other diseases that is significantly greater than the normal population, and that this may be due to firefighters' exposure to toxic chemicals and carcinogens during the course of fighting fires;

**AND WHEREAS**, in response to these studies, the Provinces of Manitoba, Alberta, Saskatchewan and Nova Scotia have amended their Workers Compensation legislation to include a presumption that, for identified types of cancer in firefighters, the disease is attributable to work as a firefighter;

**AND WHEREAS** the Fire Chief and the City's Emergency and Protective Services Committee commend the Ottawa Professional Firefighters' Association for its efforts and wish to demonstrate their support for a comprehensive review of Ontario's Workers' Compensation scheme as it specifically relates to firefighters;

**THEREFORE, BE IT RESOLVED** that the Town of Markham Council call on the Ontario Provincial Government to review Ontario's *Workplace Safety and Insurance Act* in order to ensure that firefighters and their families receive fair and timely compensation for illness or disease that is attributable to their work as firefighters; and that this motion be forwarded to the Association of Municipalities of Ontario and Federation of Canadian Municipalities.

## **Presumptive Legislation Presentation – 2006**

Good evening your Worship and Members of Council. Thank you for the opportunity to speak with you about presumptive legislation for Ontario's fire fighters.

The issue of presumptive legislation has been widely reviewed and accepted in many jurisdictions across North America. Presumptive legislation is defined as legislation that links a specific occupation, such as fire fighting, with a disease or condition that has been shown to be a hazard associated with that occupation. This means that if a firefighter contracts a disease such as colon cancer, it is presumed that the illness is the result of occupational exposure to chemicals and toxins.

There are "latency" periods associated with each disease. A fire fighter who has worked 15 years and has contracted colon cancer would be presumed to have contracted it from their occupation and therefore a worker's compensation claim would be readily accepted. Included with the presentation is a list of covered diseases and associated latency periods from the other provinces across Canada.

In Ontario, the Ontario Professional Fire Fighters Association (OPFFA) has taken the lead with respect to the issue of presumptive legislation. I would like to give you an overall perspective of where we are provincially:

- The OPFFA have worked with the Workplace Safety and Insurance Board (WSIB) in an effort to improve the scope of entitlement for compensation especially for job related cancers and occupational disease in fire fighters.
- This relationship was severely fractured because the WSIB decision makers rejected the seventy plus claims for colon cancer with neither clear reasoning nor adequate science to support their decision.
- To date the WSIB has provided benefits to fire fighters who have and are suffering from a range of diseases including brain, kidney and bladder cancers; Non-Hodgkin's lymphoma, leukemia, and degenerative neurological conditions, all of which are considered on a case-by-case basis.
- The OPFFA launched and remains committed to its primary prevention initiative undertaken in conjunction with the WSIB, the employer community, the provincial Ministry of Labour and occupational health and safety committees from across Ontario.
- British Columbia, Alberta, Saskatchewan, Manitoba and Nova Scotia have recognized the relationship between exposure to chemicals and toxins and fire fighter deaths from cancers and occupational disease. As well, New Brunswick is currently in the midst of debating legislation on the issue.

Firefighting does not allow us to refuse any work that may cause exposure to harmful carcinogens and toxins.

- Firefighters cannot refuse unsafe work as other workers in Ontario can under the provisions of the Occupational Health and Safety Act.
- Firefighters enter into environments that others are in the midst of or have completely abandoned.
- Regardless of the advancements in our protective equipment, firefighters are absorbing chemicals and toxins continually when saturated with water, steam, mists, and moisture.

There have been many studies showing an increased rate of disease in the fire fighter population compared to the general public. These studies show a statistically significant increase that can not be explained by chance.

These same studies show fire fighters have anywhere from two to four times the risk of cancer compared to the general public. If you factor in the healthy worker effect, the rates are even higher. The healthy worker effect means that most fire fighters maintain a reasonable level of fitness during their careers therefore reducing their risk of having cancer and other diseases.

Fire fighters are regularly exposed to burning chemicals and other toxins. There are 70,000 toxic substances on file with the Environmental Protection Agency (EPA) in the United States. In reality, when these substances burn together there are 70 million possible combinations of toxins produced. Fire fighters routinely endure exposure to these burning toxins in the course of protecting the lives and property of their fellow citizens.

It is fact that even with the best respiratory practices and protective equipment the exposures will continue to occur due to absorption through the skin once a fire fighter has become soaked from sweat and moisture from fire suppression activities. Furthermore, the concentrations of chemicals in today's materials are much higher than in the past due to the increased use of composite materials: the particle board used in furniture, carpets, the sponges on your microphones, the material on the chairs you sit on are just a few examples.

In summation:

- Fires and exposures are no different in Ontario than they are in British Columbia, Alberta, Saskatchewan, Manitoba or Nova Scotia. Fire fighters in those provinces receive full benefits for their cancers and occupational disease while fire fighters in Ontario do not.
- It is important and truly ironic to note that the above provinces used studies, reports, and statistics generated from research in Ontario, in particular the Industrial Disease Standard Panel 13 Report (1993-94) and from the Ontario Workplace Safety and Insurance Board to gain presumptive legislation.

- While fire fighters in Ontario are receiving compensation for certain cancers and disease on a case by case basis, there is still inequity in the system that has seen many fire fighters shut-out causing anguish and pain that no one or their families should have to bear.
- During the performance of their duties, fire fighters did not seek praise or special compensation for their efforts. They helped and continue to help unconditionally.
- Doing the right thing and supporting presumptive legislation for fire fighters is not and should not be dependent on costs. As stated above, the WSIB is already paying out benefits for specific cancers and disease but these payments are sporadic and based on individual case-by-case evaluation. Evidence from medical and occupational disease experts clearly shows that fire fighters are significantly more likely to be exposed to carcinogens and toxins that will cause cancer in the line of duty. Now is the time to recognize in law that fire fighters are at risk of job related cancer and disease and must be suitably compensated in a timely fashion.
- On April 26, 2006 the City of Ottawa took the lead by unanimously endorsing a resolution of council calling on the provincial government to review the legislation *"to ensure that firefighters and their families receive fair and timely compensation for illness or disease that is attributable to their work as firefighters"*. This resolution is attached for your review.
- On May 4, 2006 NDP MPP Andrea Horwath (Hamilton East) introduced a Private Member's Bill outlining presumptive legislation for fire fighters in Ontario. The current government has now committed to review this matter with a report due to the Minister of Labour on July 15, 2006.
- Notwithstanding the current activities at Queen's Park, the **(insert your local here)** Professional Fire Fighters Association and our families are calling on you to display your support for proper recognition for your fire fighters by adopting a similar resolution to that of the City of Ottawa.

Thank you for your time and attention and I would be pleased to take any questions you may have.

Respectively submitted,  
 John Brassard  
 President MPFFA, Local 2727

## **Parliamentary Assistant to Lead Review--May 3, 2006**

Labour Minister Steve Peters announced in the Legislature on May 3, 2006, a comprehensive review of current workplace compensation policies for firefighters battling cancer. This will include a review of the most up-to-date scientific information available.

Parliamentary Assistant for Labour Mario Racco will lead the review process, meeting with the Workplace Safety and Insurance Board (WSIB), firefighter representatives and the Fire Service Health and Safety Advisory Committee.

**May 3, 2006 – Queen's Park Hansard**

### **MPP Levac to Minister Peters Re: Firefighter Cancer Claims**

**Dave Levac (L):** Thank you, speaker. My question is for the Minister of Labour. Minister, we all now that firefighters in this province face considerable risk to their health and safety day in and day out. They willingly and courageously place themselves in harm's way, in order to protect others and their property. They routinely work extremely dangerous conditions, yet, never allow the dangers to deter them from doing their responsibilities. But some of those occupational dangers firefighters face may not be as obvious as others. In fact, Speaker, firefighters face a particular risk of developing certain occupational diseases such as cancer, as a result of exposure to various chemicals known and unknown. Under the current policies, the WSIB has presumptions that certain cancers are work related to our firefighters. However, it does not cover all cancers. Minister, I have received calls from constituents, stakeholders, and in particular their families, for the government to review the Workplace Insurance Safety Insurance Act to create presumption in the act for firefighters in making cancer claims. Minister, can you please tell me what steps we've taken to respond to such requests that I've been working on since 1999.

**>>Speaker of the house: Minister of Labour.**

**>> Hon. Steve Peters:** Thanks, speaker, and I thank the member from Brant because I know this is an issue close to his heart and he's been a great advocate for firefighters in this province. And as well, at the Ministry of Labour we take these concerns of firefighters very seriously, that's why we consider to work with the Fire Service Health and Safety Advisory Committee. On the issue of presumptive legislation, we know that it has been considered by other Canadian jurisdictions, and because of that, Mr. Speaker, I have directed my parliamentary assistant, the member from Thornhill, Mr. Mario Racco, to undertake a comprehensive review of the treatment of firefighter cancer claims and to compile an inventory of scientific literature. As part of this review, I've asked my parliamentary assistant to meet with officials from the Occupational Disease Research and Policy Branch of the WSIB, the chair and members of the research advisory council of the WSIB, employer representatives, and representatives of the professional firefighters association. I know that this review will assist me as Minister of Labour to look at where we go with this complex issue, and I've asked him to report by July --.

**>> Speaker of the House:** Thank you, supplementary.

**>> Honourable Member:** Minister that's good news and I appreciate the effort you're taking to take care of our firefighters. It's good news we're taking comprehensive steps by meeting with representatives from WSIB, the firefighters and all the stakeholders. And by examining other jurisdictions your parliamentary assistant Mr. Rocco will be able to gain the comprehensive knowledge of this very difficult issue. I look forward to him further about his report, and I hope that it's timely. Minister, I do understand, however, that the WSIB recently announced that nine previously denied or colorectal cancer claims from firefighters have been reconsidered, and allowed. This is certainly good news for the firefighters, and especially the families who are deeply concerned about the livelihood. Could you please tell us what the WSIB is doing to ensure that firefighters and their families are fairly compensated before your review is finished. And when they experience occupational diseases.

**>> Deputy Speaker:** Minister of Labour.

**>> Hon. Steve Peters:** Well, Mr. Speaker we can I think we recognize that the WSIB is an arm's length agency. And it would not be appropriate for me to comment on any individual claim. But you correctly noted that they have reviewed a number of claims. And we thank the WSIB for that. It is good news. I can also tell you that the WSIB does recognize the link between certain cancers and firefighting activities and compensates firefighters who contract these work-related cancers. Over 80 per cent of firefighters claims of some type of cancers are allowed. This is a much higher allowance rate than for other occupations. As well, though, I think it's important to recognize the ministry of labour and the WSIB will continue to work with firefighters in the province of Ontario, and the fire service health and safety advisory committee. We recognize that this is extremely difficult issue, and again, I reiterate that I have asked my parliamentary assistant Mario Rocco to undertake a comprehensive review of this issue, to undertake broad-based consultation, and to report back to me by July 15th, 2006, with recommendations as to how we can move forward. Thank you.



2ND SESSION, 38TH LEGISLATURE, ONTARIO  
55 ELIZABETH II, 2006

2<sup>e</sup> SESSION, 38<sup>e</sup> LÉGISLATURE, ONTARIO  
55 ELIZABETH II, 2006

## Bill 111

**An Act to amend the  
Workplace Safety and  
Insurance Act, 1997 with respect to  
occupational diseases and  
injuries of firefighters**

**Ms Horwath**

**Private Member's Bill**

1st Reading      May 4, 2006  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 111

**Loi modifiant la Loi de 1997  
sur la sécurité professionnelle  
et l'assurance contre les accidents  
du travail relativement  
aux maladies professionnelles  
et aux lésions des pompiers**

**M<sup>me</sup> Horwath**

**Projet de loi de député**

1<sup>re</sup> lecture      4 mai 2006  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
Sanction royale



#### EXPLANATORY NOTE

The *Workplace Safety and Insurance Act, 1997* is amended to create two rebuttable presumptions relating to health conditions affecting firefighters.

Subsection 15.1 (3) states that if a firefighter gets certain types of cancer or a degenerative neurological disease, the cancer or disease is presumed to be an occupational disease that occurred due to employment as a firefighter. The presumption applies for a cancer or disease if the worker has worked as a firefighter during at least the prescribed period or series of periods.

Subsection 15.1 (7) states that if a firefighter suffers heart damage while attending at a fire or emergency, or within 24 hours after attending at a fire or emergency, the heart damage is presumed to be a personal injury by accident that occurred due to employment as a firefighter.

#### NOTE EXPLICATIVE

La *Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail* est modifiée pour créer deux présomptions réfutables relativement aux affections dont souffrent les pompiers.

Le paragraphe 15.1 (3) énonce que si un pompier contracte certains types de cancer ou une affection neurodégénérative, il est présumé que le cancer ou l'affection est une maladie professionnelle qui a résulté de la nature de son emploi comme pompier, à condition que le travailleur ait été pompier pendant au moins la ou les périodes prescrites.

Le paragraphe 15.1 (7) énonce que si un pompier subit des dommages cardiaques pendant qu'il travaille sur les lieux d'un incendie ou dans une autre situation d'urgence, ou au cours des 24 heures qui suivent, il est présumé que les dommages sont une lésion corporelle accidentelle qui a résulté de la nature de son emploi comme pompier.



**An Act to amend the  
Workplace Safety and  
Insurance Act, 1997 with respect to  
occupational diseases and  
injuries of firefighters**

Note: This Act amends the *Workplace Safety and Insurance Act, 1997*. For the legislative history of the Act, see *Public Statutes – Detailed Legislative History* on [www.e-Laws.gov.on.ca](http://www.e-Laws.gov.on.ca).

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Workplace Safety and Insurance Act, 1997* is amended by adding the following section:**

**Health conditions, firefighters**

**Definition**

**15.1 (1)** In this section,

“firefighter” has the same meaning as in subsection 1 (1) of the *Fire Protection and Prevention Act, 1997*.

**Application**

(2) This section applies regardless of when a person worked as a firefighter, contracted a disease, sustained an injury or filed a claim under section 22.

**Presumption re occupational diseases of firefighters**

(3) For the purposes of section 15, if a worker who is a firefighter contracts a disease specified in subsection (4), the disease is presumed to be an occupational disease that occurred due to the nature of the worker’s employment as a firefighter unless the contrary is shown.

**Occupational diseases**

(4) The diseases mentioned in subsection (3) are as follows:

1. A primary-site brain cancer.
2. A primary-site bladder cancer.
3. A primary-site kidney cancer.
4. A primary non-Hodgkins’ lymphoma.

**Loi modifiant la Loi de 1997  
sur la sécurité professionnelle  
et l’assurance contre les accidents  
du travail relativement  
aux maladies professionnelles  
et aux lésions des pompiers**

Remarque : La présente loi modifie la *Loi de 1997 sur la sécurité professionnelle et l’assurance contre les accidents du travail*, dont l’historique législatif figure à l’*Historique législatif détaillé des lois d’intérêt public* dans [www.lois-en-ligne.gouv.on.ca](http://www.lois-en-ligne.gouv.on.ca).

Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :

**1. La *Loi de 1997 sur la sécurité professionnelle et l’assurance contre les accidents du travail* est modifiée par adjonction de l’article suivant :**

**Affections : pompiers**

**Définition**

**15.1 (1)** La définition qui suit s’applique au présent article.

«pompier» S’entend au sens du paragraphe 1 (1) de la *Loi de 1997 sur la prévention et la protection contre l’incendie*.

**Champ d’application**

(2) Le présent article s’applique peu importe le moment où une personne a travaillé comme pompier, a contracté une maladie, a subi une lésion ou a déposé une demande aux termes de l’article 22.

**Présomption : maladies professionnelles des pompiers**

(3) Pour l’application de l’article 15, si un travailleur qui est pompier contracte une des maladies précisées au paragraphe (4), il est présumé que la maladie est une maladie professionnelle qui a résulté de la nature de l’emploi du travailleur comme pompier, sauf si le contraire est démontré.

**Maladies professionnelles**

(4) Les maladies visées au paragraphe (3) sont les suivantes :

1. Un cancer primitif du cerveau.
2. Un cancer primitif de la vessie.
3. Un cancer primitif du rein.
4. Un lymphome primitif non hodgkinien.

5. A primary leukemia, including multiple myeloma.
6. A primary-site ureter cancer.
7. A primary-site colorectal cancer.
8. A primary-site lung cancer.
9. A primary-site testicular cancer.
10. A degenerative neurological disease.
11. A primary-site esophageal cancer.
12. A primary-site stomach cancer.

#### Restriction on presumption

(5) The presumption set out in subsection (3) only applies in respect of a disease specified in paragraphs 1 to 10 of subsection (4) and contracted by a worker if all of the following conditions are satisfied:

1. Regulations have been made under this Act that prescribe, for the specified disease, a period or series of periods of time during which the worker must have been a firefighter, and the worker was a firefighter during the period or series of periods.
2. The worker was regularly exposed during his or her employment as a firefighter to the hazards of a fire scene, other than a forest fire scene.
3. In the case of a disease referred to in paragraph 8 of subsection (4), regulations have been made under this Act that prescribe a maximum amount and a maximum duration of smoking, and the worker has not smoked a greater amount or for a longer duration than is prescribed.

#### Same

(6) The presumption set out in subsection (3) only applies in respect of a disease specified in paragraph 11 or 12 of subsection (4) and contracted by a worker if both of the following conditions are satisfied:

1. Regulations have been made under this Act that prescribe, for the specified disease, a period or series of periods of time during which the worker must have been a firefighter, and the worker was a firefighter during the period or series of periods.
2. The worker was regularly exposed during his or her employment as a firefighter to asbestos dust.

#### Presumption re injuries to heart

(7) For the purposes of section 13, if a worker who is a firefighter sustains an injury to the heart while attending at a fire or other emergency in the performance of his or her duties as a firefighter, or within 24 hours after so attending, the injury is presumed to be a personal injury by accident arising out of and in the course of the worker's employment as a firefighter unless the contrary is shown.

5. Une leucémie primitive, y compris un myélome multiple.
6. Un cancer primitif de l'uretère.
7. Un cancer primitif du côlon et du rectum.
8. Un cancer primitif du poumon.
9. Un cancer testiculaire primitif.
10. Une affection neurodégénérative.
11. Un cancer primitif de l'oesophage.
12. Un cancer gastrique primitif.

#### Restriction : présomption

(5) La présomption énoncée au paragraphe (3) ne s'applique qu'à l'égard d'une maladie précisée aux dispositions 1 à 10 du paragraphe (4) que contracte un travailleur si toutes les conditions suivantes sont réunies :

1. Ont été pris en application de la présente loi des règlements qui prescrivent, pour la maladie en question, une période ou série de périodes pendant lesquelles le travailleur doit avoir été pompier et celui-ci était pompier pendant la ou les périodes en question.
2. Le travailleur était régulièrement exposé aux dangers existant sur les lieux d'incendies, à l'exclusion des incendies de forêt, au cours de son emploi comme pompier.
3. S'il s'agit de la maladie visée à la disposition 8 du paragraphe (4), ont été pris en application de la présente loi des règlements qui prescrivent une quantité et une durée maximales applicables à l'usage du tabac et le travailleur n'a pas fumé une quantité supérieure de tabac ou pendant une durée supérieure à celles prescrites.

#### Idem

(6) La présomption énoncée au paragraphe (3) ne s'applique qu'à l'égard de la maladie précisée à la disposition 11 ou 12 du paragraphe (4) que contracte un travailleur si les deux conditions suivantes sont réunies :

1. Ont été pris en application de la présente loi des règlements qui prescrivent, pour la maladie en question, une période ou série de périodes pendant lesquelles le travailleur doit avoir été pompier et celui-ci était pompier pendant la ou les périodes en question.
2. Le travailleur était régulièrement exposé à la poussière d'amianté au cours de son emploi comme pompier.

#### Présomption : lésion cardiaque

(7) Pour l'application de l'article 13, si un travailleur qui est pompier subit une lésion cardiaque pendant qu'il travaille sur les lieux d'un incendie ou dans une autre situation d'urgence dans l'exercice de ses fonctions comme pompier, ou au cours des 24 heures qui suivent, il est présumé que la lésion est une lésion corporelle accidentelle survenant du fait et au cours de l'emploi du tra-

**Time limits do not apply**

(8) The time limits set out in subsections 22 (1) and (2) do not apply to the filing of a claim in respect of,

- (a) a disease that is presumed, under subsection (3), to be an occupational disease that occurred due to the nature of a worker's employment as a firefighter; or
- (b) an injury that is presumed, under subsection (7), to be a personal injury by accident arising out of and in the course of a worker's employment as a firefighter.

**Regulations**

(9) The Board may make regulations,

- (a) prescribing the period or series of periods during which a worker must have been a firefighter, for the purposes of paragraph 1 of subsection (5) and paragraph 1 of subsection (6); and
- (b) prescribing the maximum amount and maximum duration of smoking, for the purposes of paragraph 3 of subsection (5).

**Same**

(10) A regulation under subsection (9) may be general or particular.

**Commencement**

**2. This Act comes into force on the day it receives Royal Assent.**

**Short title**

**3. The short title of this Act is the *Workplace Safety and Insurance Amendment Act (Bob Shaw), 2006*.**

vaillleur comme pompier, sauf si le contraire est démontré.

**Non-application des délais**

(8) Les délais énoncés aux paragraphes 22 (1) et (2) ne s'appliquent pas au dépôt d'une demande effectué à l'égard, selon le cas :

- a) d'une maladie qui est présumée, en application du paragraphe (3), être une maladie professionnelle qui a résulté de la nature de l'emploi du travailleur comme pompier;
- b) d'une lésion qui est présumée, en application du paragraphe (7), être une lésion corporelle accidentelle survenant du fait et au cours de l'emploi du travailleur comme pompier.

**Règlements**

(9) La Commission peut, par règlement :

- a) prescrire la période ou série de périodes pendant lesquelles un travailleur doit avoir été pompier pour l'application de la disposition 1 du paragraphe (5) et de la disposition 1 du paragraphe (6);
- b) prescrire la quantité et la durée maximales applicables à l'usage du tabac pour l'application de la disposition 3 du paragraphe (5).

**Idem**

(10) Les règlements pris en application du paragraphe (9) peuvent avoir une portée générale ou particulière.

**Entrée en vigueur**

**2. La présente loi entre en vigueur le jour où elle reçoit la sanction royale.**

**Titre abrégé**

**3. Le titre abrégé de la présente loi est *Loi Bob Shaw de 2006 modifiant la Loi sur la sécurité professionnelle et l'assurance contre les accidents du travail*.**

