

Firefighters, benefits available to private employees

Number: INFORMAL

Date: April 06, 2000

The Honorable Frank Farkas
Representative, District 52
1510 4th Street North
St. Petersburg, Florida 33704

Dear Representative Farkas:

This is in response to your request for an opinion as to whether employees of Lealman Fire and Rescue, Inc., are eligible for benefits available under sections 112.18 and 112.181, Florida Statutes. Lealman Fire and Rescue, Inc. (Lealman), is a nonprofit private corporation contracting with the Pinellas County Fire Authority (Authority) to provide fire protection services within the Lealman Fire District.[1] The contract provided to this office specifies that Lealman is an "independent contractor in all respects and shall not be the agent, servant, officer, or employee of Authority." [2]

Section 112.18, Florida Statutes, provides a presumption that any condition or impairment of health of "any Florida municipal, county, port authority, special tax district, or fire control district firefighter" caused by tuberculosis, heart disease, or hypertension that results in total or partial disability is accidental or to have been suffered in the line of duty unless the contrary is shown by competent substantial evidence.[3] Section 112.181, Florida Statutes, sets forth special provisions relating to certain communicable diseases that emergency rescue or public safety workers may suffer as a result of their exposure during the line of duty. This section defines "[e]mergency rescue or public safety worker" to mean

"any person *employed full time by the state or any political subdivision of the state as a firefighter*, paramedic, emergency medical technician, law enforcement officer, or correctional officer who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis and who is not employed elsewhere in a similar capacity." [4] (e.s.)

The plain language of both of the controlling statutes limits their application to employees of the state, political subdivisions of the state, and several enumerated public entities.[5] By its terms, the contract between the Authority and Lealman makes the firefighters employed by Lealman independent contractors and not employees of the Authority.

Given the contract specifications and the clear requirement that only employees of the enumerated public entities are afforded the statutory presumptions, firefighters employed by Lealman Fire and Rescue, Inc., would not be eligible for the benefits granted in sections 112.18 and 112.181, Florida Statutes.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tls

[1] You indicate that the Lealman Fire District was created pursuant to Ch. 73-600, Laws of Florida, which in s. 4(17), requires the Pinellas County fire authority to "divide Pinellas County into fire protection districts, said districts not becoming effective until sections 4, 5 and 6 of this act have been fully complied with."

[2] Section 12, Fire Protection Services Agreement, April 23, 1996.

[3] See s. 112.18(1), Fla. Stat.

[4] Section 112.181 (1)(b), Fla. Stat.

[5] See *Thayer v. State*, 335 So. 2d 815, 817 (Fla. 1976); *Dobbs v. Sea Isle Hotel*, 56 So. 2d 341, 342 (Fla. 1952); *Ideal Farms Drainage District v. Certain Lands*, 19 So. 2d 234 (Fla. 1944) (when a statute enumerates the things upon which it is to operate, it is ordinarily construed as excluding from its operation all things not expressly mentioned).