



Council Agenda Report

To: Mayor Wagner and the Honorable Members of the City Council

Prepared by: Mary Linden, Executive Assistant

Approved by: Reva Feldman, City Manager

Date prepared: July 16, 2019 Meeting date: August 12, 2019

Subject: Senate Bill (SB) 542 – Support (Councilmember Pierson)

RECOMMENDED ACTION: At the request of Councilmember Pierson, authorize the Mayor to send a letter of support for SB 542, a bill that would expand the definition of ‘injury’ for workers compensation benefits provided to firefighters and law enforcement personnel, for all claims filed or pending on or after January 1, 2017, to include a diagnosis of post-traumatic stress or mental health disorder that developed or manifested itself when the firefighter or peace officer was in the service of their department.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: Under existing State law, a person injured in the course of employment is generally entitled to receive workers’ compensation for that injury. For firefighting and law enforcement personnel, the term “injury” includes various medical conditions that occur while the member is in the service of their department or unit.

It is well known that firefighters and law enforcement personnel are behind only active military personnel in the levels of stress experienced on the job. Their high-stress working environments can take an overwhelming mental, emotional, and physical toll. The results of this chronic exposure to traumatic events may not become apparent until after the incidents but remain as critical a health risk as a physical injury incurred while working. The psychological and emotional stress of their professions can have a detrimental impact long after their shifts are over. Current law, however, is not clearly defined to include post-traumatic or stress-induced disorders as injuries covered under the terms for workers compensation benefits.

California Senator Henry Stern has introduced SB 542 to address this oversight. The bill would expand the definition of 'injury' for workers compensation claims filed or pending after January 1, 2017, to include post-traumatic stress or mental health disorder when that injury developed or was manifested while a firefighter or peace officer was on duty.

Councilmember Pierson is requesting the City Council authorize the Mayor to send a letter of support for SB 542 to ensure that the appropriate treatment and support is provided to our firefighters and law enforcement officers for all injuries, whether physical, mental, or emotional, that are incurred in the service of our communities.

ATTACHMENTS: SB 542

Introduced by Senator Stern

February 22, 2019

An act to add Section 3212.15 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 542, as introduced, Stern. Workers' compensation.

Under existing law, a person injured in the course of employment is generally entitled to receive workers' compensation on account of that injury. Existing law provides that, in the case of certain state and local firefighting personnel and peace officers, the term "injury" includes various medical conditions that are developed or manifested during a period while the member is in the service of the department or unit, and establishes a disputable presumption in this regard.

This bill would provide that in the case of certain state and local firefighting personnel and peace officers, the term "injury" also includes a mental health condition or mental disability that results in a diagnosis of post-traumatic stress or mental health disorder that develops or manifests itself during a period in which the firefighting member or peace officer is in the service of the department or unit. These provisions would apply to claims for benefits filed or pending on or after January 1, 2017.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

1 (1) Firefighting and law enforcement are recognized as two of
2 the most stressful occupations. Only our nation’s combat soldiers
3 endure more stress. Similar to military personnel, California’s
4 firefighters and law enforcement personnel face unique and
5 uniquely dangerous risks in their sworn mission to keep the public
6 safe. They rely on each other for survival while placing their lives
7 on the line every day to protect the communities they serve.

8 (2) Firefighters and law enforcement personnel routinely respond
9 to traumatic incidents and dangerous circumstances, including,
10 but not limited to, fires, stabbings, gun battles and shootings,
11 including active shooter incidents, domestic violence, terrorist
12 acts, riots, automobile accidents, airplane crashes, earthquakes,
13 and other gruesome scenes.

14 (3) On any given shift, firefighters and law enforcement
15 personnel can be called on to make life and death decisions, witness
16 a young child dying with their grief-stricken family, or be exposed
17 to a myriad of communicable diseases and known carcinogens.
18 Firefighters and law enforcement personal are constantly at
19 significant risk of bodily harm or physical assault while they
20 perform their duties.

21 (4) Constant, cumulative exposure to these horrific events make
22 firefighters and law enforcement personnel uniquely susceptible
23 to the emotional and behavioral impacts of job-related stressors.
24 This is especially evident given that the nature of the job often
25 calls for lengthy separation from their families due to a long shift
26 or wildfire strike team response.

27 (5) Today, a firefighter’s and law enforcement officer’s
28 occupational stress is heightened in the face of California’s “new
29 normal” in which wildland and wildland-urban interface fires
30 continue to annually increase as hot, dry, and wind-whipped
31 conditions persist.

32 (6) For firefighters, California’s year-round fire seasons and
33 climatic factors are conducive to large-scale, devastating fire
34 events. In 2018, the Carr Fire produced a fire tornado that reached
35 speeds of 143 miles per hour and caused a cataclysmic path of
36 destruction in Redding, where 2 firefighters were among the 7
37 people who lost their lives.

38 (7) Last year’s fire storms were a brutal reminder of the ferocity
39 of wildfires and how all too often on-duty firefighters and law
40 enforcement officers incur the stress of witnessing victims flee

1 while worrying about whether their own homes, and the safety of
2 their families and neighbors, are threatened. When on duty,
3 firefighters and law enforcement officers endure the added pain
4 of driving through wreckage, seeing destroyed homes, or worse,
5 the skeletal remains of family, friends, and neighbors burned to
6 ash while not being able to stop to provide assistance or comfort.

7 (8) While the cumulative impacts of these aggressive, deadly
8 events are taking their toll, our firefighters and law enforcement
9 officers continue to stand up to human-caused devastation and
10 nature’s fury, but they are physically and emotionally exhausted.

11 (9) Despite the job-related dangers and stressors, the call to
12 respond is simple for many public safety personnel. It’s their job.
13 But a high-stress working environment can take an overwhelming
14 mental, emotional, and physical toll as chronic exposure to
15 traumatic events and critical incidents increases the risk for
16 post-traumatic stress and other stress-induced injuries.

17 (10) While most firefighters and law enforcement officers
18 survive the traumas of their job, sadly, many experience the impacts
19 of occupational stressors when off duty. The psychological and
20 emotional stress of their profession can have a detrimental impact
21 long after their shift is over.

22 (11) Trauma-related injuries can become overwhelming and
23 manifest in post-traumatic stress, which may result in substance
24 use disorders and even, tragically, suicide. The fire service is four
25 times more likely to experience a suicide than a work-related death
26 in the line of duty in any year.

27 (12) California has a responsibility to ensure that its fire and
28 law enforcement agencies are equipped with the tools necessary
29 to assist their personnel in mitigating the occupational stress
30 experienced as a result of performing their job duties and protecting
31 the public.

32 (b) It is, therefore, the intent of the Legislature to enact
33 legislation recognizing the hazards and resulting trauma of these
34 occupations and provide treatment and support for these public
35 servants through presumptive care to our firefighters and law
36 enforcement officers.

37 SEC. 2. Section 3212.15 is added to the Labor Code,
38 immediately following Section 3212.1, to read:

39 3212.15. (a) This section applies to all of the following:

- 1 (1) Active firefighting members, whether volunteers, partly
2 paid, or fully paid, of all of the following fire departments:
3 (A) A fire department of a city, county, city and county, district,
4 or other public or municipal corporation or political subdivision.
5 (B) A fire department of the University of California and the
6 California State University.
7 (C) The Department of Forestry and Fire Protection.
8 (D) A county forestry or firefighting department or unit.
- 9 (2) Active firefighting members of a fire department that serves
10 a United States Department of Defense installation and who are
11 certified by the Department of Defense as meeting its standards
12 for firefighters.
- 13 (3) Active firefighting members of a fire department that serves
14 a National Aeronautics and Space Administration installation and
15 who adhere to training standards established in accordance with
16 Article 4 (commencing with Section 13155) of Chapter 1 of Part
17 2 of Division 12 of the Health and Safety Code.
- 18 (4) Peace officers, as defined in Section 830.1, subdivision (a),
19 (b), and (c) of Section 830.2, Section 830.32, subdivisions (a) and
20 (b) of Section 830.37, Sections 830.5 and 830.55 of the Penal
21 Code, who are primarily engaged in active law enforcement
22 activities.
- 23 (5) (A) Fire and rescue services coordinators who work for the
24 Office of Emergency Services.
25 (B) For purposes of this paragraph, “fire and rescue services
26 coordinators” means coordinators with any of the following job
27 classifications: coordinator, senior coordinator, or chief
28 coordinator.
- 29 (b) The term “injury,” as used in this division, includes a mental
30 health condition or mental disability that results in a diagnosis of
31 post-traumatic stress or mental health disorder that develops or
32 manifests itself during a period in which any member described
33 in subdivision (a) is in the service of the department or unit.
- 34 (c) The compensation that is awarded for post-traumatic stress
35 or mental health disorder shall include full hospital, surgical,
36 medical treatment, disability indemnity, and death benefits, as
37 provided by this division.
- 38 (d) The post-traumatic stress or mental health disorder so
39 developing or manifesting itself in these cases shall be presumed
40 to arise out of and in the course of the employment. This

1 presumption is disputable and may be controverted by other
2 evidence, but unless so controverted, the appeals board is bound
3 to find in accordance with the presumption. This presumption shall
4 be extended to a member following termination of service for a
5 period of 3 calendar months for each full year of the requisite
6 service, but not to exceed 60 months in any circumstance,
7 commencing with the last date actually worked in the specified
8 capacity.

9 (e) The act adding this section enacted during the 2019 portion
10 of the 2019–20 Regular Session shall be applied to claims for
11 benefits filed or pending on or after January 1, 2017, including,
12 but not limited to, claims for benefits filed on or after that date
13 that have previously been denied, or that are being appealed
14 following denial.

15 (f) For the purposes of this section, a “mental health condition
16 or mental disability” means a post-traumatic stress disorder or
17 mental health disorder as described in the most recent edition of
18 the Diagnostic and Statistical Manual of Mental Disorders
19 published by the American Psychiatric Association.