
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 623 (Laird) - Workers' compensation: post-traumatic stress disorder

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Urgency: No

Hearing Date: April 24, 2023

Policy Vote: L., P.E. & R. 5 - 0

Mandate: No

Consultant: Robert Ingenito

Bill Summary: SB 623 would (1) extend the existing rebuttable presumption until January 1, 2032 for specified peace officers that a diagnosis of post-traumatic stress injury (PTSI) is occupational, and thus covered by workers' compensation, and (2) extend the PTSI rebuttable presumption to additional categories of peace officers, investigators, security officers, and dispatchers, as specified.

Fiscal Impact: Extending coverage of presumptive injuries to specified mental health conditions would likely result in increased workers compensation costs until January 1, 2032. The magnitude is unknown, and would depend on (1) the number of affected employees, and (2) the frequency of PTSI claims that would become compensable as a result of the presumption's expansion. Total annual costs across all affected departments would likely be in the millions of dollars. The bill's implementation costs at the Department of Insurance and the Department of Industrial Relations have yet to be identified.

Background: Current law establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of DIR to self-insure or by securing insurance against liability from an insurance company duly authorized by the state.

Current law also creates presumptions to reflect unique circumstances where injuries or illnesses appear to be logically work-related, but it is difficult for the safety officer to prove so. Presumptions are rebuttable, but given that many injuries for which presumptions exist can have a variety of causes, it is difficult to prove they are not work-related. Consequently, Thus, employers rarely attempt to rebut presumptions. These presumptions include: (1) heart disease, (2) hernias, (3) pneumonia, (4) cancer, (5) meningitis, (6) tuberculosis, and (7) bio-chemical illness. The absence of a presumption does not mean an employee does not qualify for workers' compensation benefits, but that an employee must prove an injury is work-related in order to qualify.

The compensation awarded for these injuries must include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by workers compensation law. These presumptions tend to run for 5 to 10 years commencing on their last day of employment, depending on the injury and the peace officer classification involved. Peace officers whose principal duties are clerical, such as stenographers, telephone operators, and other office workers are excluded.

Additionally, current law (Stern, 2019) provides, until January 1, 2025, a disputable presumption that a diagnosis of PTSD for specified peace officers and firefighters, including those employed by the Department of Forestry and Fire Protection, the Office of Emergency Services, the University of California, and California State University, is an occupational injury, running for up to five years. The benefit includes full hospital, surgical, medical treatment, disability indemnity, and death benefits, but only applies to peace officers who have served at least six months.

The presumptions listed above are disputable and may be controverted by evidence. However, unless controverted, the Workers' Compensation Appeals Board (WCAB) within DIR must find in accordance with the presumption.

Proposed Law: This bill, for injuries occurring on or after January 1, 2024, would do the following:

- Extend the sunset to January 1, 2032, for the presumption that a diagnosis of PTSD is occupational and therefore covered by workers' compensation.
- Expand (as cited by the Senate Committee on Labor, Public Employment and Retirement) the PTSD workers' compensation presumption to the following employees: (1) active, volunteer, partly paid, and fully paid firefighters of the Department of State Hospitals, Department of Developmental Services, Military Department, and Department of Veterans Affairs, (2) volunteer fire wardens summoned by the Department of Forestry and Fire Protection to assist in suppressing a forest fire, (3) firefighter and security peace officers of the Military Department, (4) members of the Office of Correctional Safety of the Department of Corrections and Rehabilitation provided their primary duties are investigation and apprehension, (5) deputized employees of the Department of Fish and Wildlife designated by the director, (6) peace officers of the Department of Parks and Recreation, (7) director, peace officers, and voluntary fire wardens of the Department of Forestry and Fire Protection, (8) the director and peace officers of the Department of Alcoholic and Beverage Control, (9) marshals and police appointed by the Board of Directors of the California Exposition and State Fair, (10) the chief, deputy chief, supervising investigators, and investigators of the Office of Protective Services of the Department of Developmental Services, (11) the Chief, deputy chief, supervising investigators, and investigators of the Office of Protective Services of the Department of State Hospitals, (12) the medical directors, hospital administrators, hospital directors, chief of police services, or other hospital employees appointed as officers of the Department of State Hospitals or Department of Developmental Services, (13) the chief, deputy chief, supervising investigators, and investigators of the Office of Law Enforcement Support of the Health and Human Services Agency, (14) the chief, assistant chief, and all security and safety officers of museum security and safety of Exposition Park, (15) enforcement officers of the Department of Cannabis Control, (16) the chief and all investigators of the Department of Consumer Affairs and investigators of the Dental Board of California, (17) the director, deputy director, investigations director, field investigation branch chief, and investigators of the Department of Motor Vehicles. (18) the State Fire Marshal and assistant or deputy state fire marshals, (19) the Chief and inspectors of the Food and Drug Branch of the Department of Public Health, (20) the chief and

Coordinators of the Law Enforcement Branch of the Office of Emergency Services, (21) the Deputy Director for Security and all lottery security personnel at the California State Lottery, (22) security officers of the Department of Justice, and (23) investigators in 15 specified state departments, provided their primary duty is enforcement of the law within their respective jurisdictions.

- Expand the PTSI workers' compensation presumption to additionally include public safety dispatchers, public safety telecommunicators, and emergency response communication employees employed by a public safety agency whose primary responsibility is to receive, process, transmit, or dispatch emergency and nonemergency calls for law enforcement, fire, emergency medical, and other public safety services by telephone, radio, or another communication device, and includes individuals who supervise those who perform these functions.

Related Legislation:

- AB 597 (Rodriguez) would, for injuries occurring on or after January 1, 2024, create a rebuttable presumption for emergency medical technicians and paramedics that PTSI is an occupational injury and covered under workers' compensation. The bill is currently pending in the Assembly Insurance Committee.
- SB 284 (Stern, 2022) would have expanded the existing PTSI rebuttable presumption to the same classes of public first responders as this bill. SB 284 did not include a sunset extension, and was vetoed by the Governor.
- SB 542 (Stern, Chapter 390, Statutes of 2019) created the rebuttable presumption for specified peace officers that a diagnosis of PTSI is occupational and therefore covered by workers' compensation.

Staff Comments: This bill would result in additional claims being filed within the State's workers compensation system, and thus impact the State as a direct employer. The annual number of additional claims, amounts awarded and the resulting increase in workers compensation premiums paid by the State as a direct employer are all unknown. The rise in expenditures would likely come from: (1) increased workers' compensation costs to pay full hospital, surgical, medical treatment, disability indemnity, and death benefits for PTSD, (2) increased payment of salary continuation benefits, (3) higher pensions, and (4) increased industrial disability retirements. The exact magnitude of the fiscal impact on the impacted agencies is uncertain, and would depend on the number of affected employees and the frequency of PTSD claims that would become compensable because of the presumption's expansion.

As noted earlier, SB 284 (Stern) would have expanded the existing PTSI rebuttable presumption to the same classes of public first responders as this bill. When this Committee heard SB 284 on March 22, 2021, the Department of Finance's representative testified that the cost of expanding presumption was unknown, but could total up to \$2 million annually across all state departments. Finally, the bill could result in a reimbursable state mandate, due to the inclusion of public safety dispatchers, public safety telecommunicators, and emergency response communications employees,

classifications, which are utilized by local governments. DOF estimated that such a mandate could potentially cost \$5 million to \$10 million annually.

Three other states (Washington, Maine and Vermont) and six Canadian provinces have recently codified post-traumatic stress injuries (PTSI) presumptions for their first responders. Staff was unable to determine the fiscal impact to the budgets of those entities as a result of the expansion of coverage.

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