

Date of Hearing: August 16, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 623 (Laird) – As Amended March 20, 2023

Policy Committee: Insurance

Vote: 13 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill extends, by seven years, to January 1, 2032, the rebuttable presumption under the workers' compensation system for a diagnosis of post-traumatic stress disorder (PTSD) in safety officers, and expands the presumption to cover additional firefighters, peace officers, and public safety dispatchers.

The expanded presumption applies to injuries occurring on or after January 1, 2024, in firefighting members of the Department of State Hospitals, Department of Developmental Services, Military Department, and Department of Veteran Affairs; security officers of the Department of Justice; peace officers of a state hospital; and public safety dispatchers and telecommunicators, and emergency response communication employees.

FISCAL EFFECT:

- 1) Costs of an unknown amount to the Workers' Compensation Appeals Board (WCAB), as data suggests that a PTSD presumption has not led to less litigation (special fund). Although the Division of Workers' Compensation (DWC) has estimated absorbable costs for prior legislation establishing a presumption, DWC must reconsider such costs after reviewing data to quantify how much additional time and resources are needed for WCAB adjudication of such matters.
- 2) Costs of an unknown amount, but potentially in the millions of dollars, across impacted departments for additional workers' compensation claims and staff workload to process the increase (General Fund (GF)). The magnitude of costs depends on the number of affected employees and frequency of claims that become compensable as a result of the presumption's expansion and extension.

The Department of Finance's (DOF's) analysis notes that an increase of 10 approved claims per year, assuming costs of approximately \$50,000 per claim, would result in GF costs of at least \$500,000, paid out over the course of several years. DOF also estimates substantial costs to local governments, but notes such costs would most likely not be state-reimbursable. The Commission on State Mandates has previously held that workers' compensation benefits impact both public and private employers and are therefore not reimbursable.

COMMENTS:

- 1) **Purpose.** According to the author:

California's peace officers, firefighters, and public safety dispatchers are exposed to extraordinarily stressful working conditions on a near-daily basis. They respond to structure fires, massive wildfires, gun violence, domestic violence incidents, terrorist acts, automobile accidents, airplane crashes, and earthquakes, just to name a few...

SB 623 ensures California's public emergency responders can continue accessing critical health care by extending the existing [PTSD] presumption by seven years from 2025 to 2032. Without further action, this critical presumption will expire. SB 623 also expands the presumption to include 9-1-1 dispatchers and other state peace officers who experience these same traumatic events on a near-daily basis.

- 2) **Support and Opposition.** This bill is co-sponsored by the California Chapter of the National Emergency Number Association, California Professional Firefighters, California Statewide Law Enforcement Association, and Peace Officers Research Association of California, with the latter arguing "In 2022, 167 law enforcement officers were lost due to suicide. These deaths cannot continue to happen and by expanding the scope of current law...more officers will be given the support they desperately need." This bill is also supported by other labor organizations.

This bill is opposed by a coalition of insurers and public employers, led by the California Coalition on Workers' Compensation, which acknowledges "PTSD as a result of being exposed to traumatic situations" but argues "there is no evidence that normal operation of our workers' compensation system is failing to provide benefits or that setting aside employer protections in favor of a presumption is warranted."

- 3) **Background.**

PTSD Presumption. Presumptions of compensability in the workers' compensation system reflect unique circumstances when an injury or illness appear to logically be work-related, but is difficult for the injured worker to prove the condition is work-related. The absence of a presumption does not mean an employee does not qualify for benefits, but that the employee must prove the injury is work-related to qualify.

Existing law provides safety officers presumptions for heart disease, hernias, pneumonia, cancer, meningitis, tuberculosis and bio-chemical illness. SB 542 (Stern), Chapter 390, Statutes of 2019, added, until January 1, 2025, a rebuttable presumption for PTSD for certain state and local firefighting personnel and peace officers. This bill extends this sunset date to January 1, 2032 and expands the presumption to cover additional firefighters, peace officers, and public safety dispatchers.

Commission on Health and Safety and Workers' Compensation (CHSWC) Study. In September 2019, the Chair of the Assembly Insurance Committee sent a letter to CHSWC requesting a study related to the PTSD presumption created by SB 542. Study results were presented to the CHSWC board at their October 5, 2021 meeting, but many board members raised concerns over the study's robustness. Study authors also noted further research is needed to better understand the effectiveness of the PTSD presumption.

According to the Assembly Insurance Committee's analysis of this bill, the sponsors indicated that they are in the process of collecting additional data from members, but did not provide any data to the committee. The author has also committed to requesting a new CHSWC study analyzing presumption data prior to this bill's 2032 sunset date.

- 4) **Related Legislation.** AB 1145 (Maienschein) includes, until January 1, 2030, PTSD as a workers' compensation injury and provides a rebuttable presumption for such an injury diagnosis in certain state nurses, psychiatric technicians, and medical and social services specialists. AB 1145 is pending on the Senate Appropriations Committee's suspense file.
- 5) **Prior Legislation.** SB 284 (Stern), of the 2021-2022 Legislative Session, was substantively similar to this bill. SB 284 was vetoed by the Governor, who stated:

Expanding coverage of the PTSD injury presumption to significant classes of employees before any studies have been conducted on the existing class for whom the presumption is temporarily in place could set a dangerous precedent that has the potential to destabilize the workers' compensation system going forward, as stakeholders push for similarly unsubstantiated presumptions.

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