

AMENDED IN ASSEMBLY APRIL 17, 2002

AMENDED IN ASSEMBLY MARCH 12, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1847

Introduced by Assembly Member Correa
(Coauthors: Assembly Members ~~Florez, Matthews, and Nakano~~)
Briggs, Diaz, Florez, Longville, Matthews, Nakano, and
Strom-Martin)

January 28, 2002

An act to add Section 31720.9 to the Government Code, and to add Sections 3211.5 and 3212.85 to the Labor Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1847, as amended, Correa. Public employees: public safety members: biochemical substances.

The County Employees Retirement Law of 1937 provides that, for purposes of qualification for disability retirement benefits, the development of a blood-borne infectious disease by specified safety members, firefighters, county probation officers, and members in active law enforcement, who have completed 5 or more years of service, as specified, shall be presumed to arise out of, and in the course of, employment if the member demonstrates that he or she was exposed to blood or blood products as a result of performance of job duties.

This bill would additionally provide that, for purposes of qualification for disability benefits, the development of an illness due to exposure to a biochemical substance, *as defined*, by specified peace

officer or firefighter members is presumed to arise out of, and in the course of, employment.

Under existing law, a person injured in the course of employment is generally entitled to receive workers' compensation due to that injury. Existing law provides that, in the case of certain state and local firefighting and law enforcement personnel, the term "injury" includes hernia, tuberculosis, and meningitis that develops or manifests itself during a period while the member is in the service of the governmental entity, and establishes a disputable presumption in this regard.

This bill would provide that, for specified peace officers and firefighters, the term "injury" includes illness or resulting death due to exposure to a biochemical substance, *as defined*, during the period in which the member is in the service of the governmental entity, and also establishes a disputable presumption in this regard.

Existing workers' compensation law contains various provisions applicable to a firefighter, firefighting member, and member of a fire department.

This bill would specify that whenever these terms are used, the term shall include, but shall not be limited to, unless the context expressly provides otherwise, a person engaged in providing firefighting services who is an apprentice, volunteer, or employee on a partly paid or fully paid basis.

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. Section 31720.9 is added to the Government
2 Code, to read:
3 31720.9. (a) If a peace officer member, as defined in Sections
4 830.1 to 830.5, inclusive, of the Penal Code, or firefighter
5 member, with service under a pension system established pursuant
6 to Chapter 4 (commencing with Section 31900) or under a pension
7 system established pursuant to Chapter 5 (commencing with
8 Section 32200), or both, or under this retirement system, under the
9 Public Employees' Retirement System, or under a retirement
10 system established under this chapter in another county, becomes
11 ill or dies due to exposure to a biochemical substance, the illness
12 that develops or manifests itself in those cases shall be presumed
13 to arise out of, and in the course of, employment. The illness that



1 develops or manifests itself in those cases shall in no case be
2 attributed to any illness existing prior to that development or
3 manifestation.

4 (b) Any peace officer member or firefighter member, as
5 described in subdivision (a), who becomes permanently
6 incapacitated as a result of exposure to a biochemical substance
7 shall receive a service-connected disability retirement.

8 (c) The presumption described in subdivision (a) is rebuttable
9 by other evidence. Unless rebutted, the board is bound to find in
10 accordance with the presumption. This presumption shall be
11 extended to a member following termination of service for a
12 period of three calendar months for each full year of the requisite
13 service, but not to exceed 60 months in any circumstance,
14 commencing with the last date actually worked in the specified
15 capacity.

16 (d) For purposes of this section, a peace officer member or
17 firefighter member, as described in subdivision (a), does not
18 include a member whose principal duties are clerical or otherwise
19 do not clearly fall within the scope of active law enforcement
20 services or active firefighting services, such as stenographers,
21 telephone operators, and other office workers.

22 (e) *“Biochemical substance” means any biological or*
23 *chemical agent that may be used as a weapon of mass destruction,*
24 *including, but not limited to, any chemical warfare agent,*
25 *weaponized biological agent, or nuclear or radiological agent, as*
26 *these terms are defined in Section 11417 of the Penal Code.*

27 SEC. 2. Section 3211.5 is added to the Labor Code, to read:

28 3211.5. For purposes of this division, whenever the term
29 “firefighter,” “firefighting member,” and “member of a fire
30 department” is used, the term shall include, but shall not be limited
31 to, unless the context expressly provides otherwise, a person
32 engaged in providing firefighting services who is an apprentice,
33 volunteer, or employee on a partly paid or fully paid basis.

34 SEC. 3. Section 3212.85 is added to the Labor Code, to read:

35 3212.85. (a) This section applies to peace officers described
36 in Sections 830.1 to 830.5, inclusive, of the Penal Code, and
37 members of a fire department.

38 (b) The term “injury,” as used in this division, includes illness
39 or resulting death due to exposure to a biochemical substance that
40 develops or occurs during a period in which any member described



1 in subdivision (a) is in the service of the department or unit, ~~if the~~
2 ~~member demonstrates that he or she was exposed to the~~
3 ~~biochemical substance while in the service of the department or~~
4 ~~unit.~~

5 (c) The compensation that is awarded for injury pursuant to this
6 section shall include full hospital, surgical, medical treatment,
7 disability indemnity, and death benefits, as provided by this
8 division.

9 (d) The injury that develops or manifests itself in these cases
10 shall be presumed to arise out of, and in the course of, the
11 employment. This presumption is disputable and may be
12 controverted by other evidence. Unless controverted, the appeals
13 board is bound to find in accordance with the presumption. This
14 presumption shall be extended to a member following termination
15 of service for a period of three calendar months for each full year
16 of the requisite service, but not to exceed 60 months in any
17 circumstance, commencing with the last date actually worked in
18 the specified capacity.

19 (e) For purposes of this section, ~~“members~~ *the following*
20 *definitions apply:*

21 (1) *“Biochemical substance” means any biological or*
22 *chemical agent that may be used as a weapon of mass destruction,*
23 *including, but not limited to, any chemical warfare agent,*
24 *weaponized biological agent, or nuclear or radiological agent, as*
25 *these terms are defined in Section 11417 of the Penal Code.*

26 (2) *“Members of a fire department” includes, but is not limited*
27 *to, an apprentice, volunteer, partly paid, or fully paid member of*
28 *any of the following:*

29 ~~(1)~~

30 (A) A fire department of a city, county, city and county, district,
31 or other public or municipal corporation or political subdivision.

32 ~~(2)~~

33 (B) A fire department of the University of California and the
34 California State University.

35 ~~(3)~~

36 (C) The Department of Forestry and Fire Protection.

37 ~~(4)~~

38 (D) A county forestry or firefighting department or unit.

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