

AMENDED IN SENATE JANUARY 29, 2008

AMENDED IN SENATE JANUARY 22, 2008

AMENDED IN SENATE JUNE 28, 2007

SENATE BILL

No. 726

Introduced by Senator Alquist

February 23, 2007

An act to amend Section 3212.8 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 726, as amended, Alquist. Workers' compensation: benefits: presumption: *blood-borne infectious disease*.

Existing law provides that an injury to an employee arising out of, and in the course of, employment is generally compensable through the workers' compensation system. Existing law provides that, in the case of certain firefighting and law enforcement personnel, the term "injury" includes, among other conditions, any blood-borne infectious disease 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 the above-described definition of injury would apply to claims for benefits filed or pending *in the County of Santa Clara* on and after April 1, 1995. *The bill would declare that, due to the unique circumstances pertaining to the County of Santa Clara that the bill is intended to remedy, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.*

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 3212.8 of the Labor Code is amended to
2 read:

3 3212.8. (a) In the case of members of a sheriff’s office, of
4 police or fire departments of cities, counties, cities and counties,
5 districts, or other public or municipal corporations or political
6 subdivisions, or individuals described in Chapter 4.5 (commencing
7 with Section 830) of Title 3 of Part 2 of the Penal Code, whether
8 those persons are volunteer, partly paid, or fully paid, and in the
9 case of active firefighting members of the Department of Forestry
10 and Fire Protection, or of any county forestry or firefighting
11 department or unit, whether voluntary, fully paid, or partly paid,
12 excepting those whose principal duties are clerical or otherwise
13 do not clearly fall within the scope of active law enforcement
14 service or active firefighting services, such as stenographers,
15 telephone operators, and other office workers, the term “injury”
16 as used in this division, includes a blood-borne infectious disease
17 when any part of the blood-borne infectious disease develops or
18 manifests itself during a period while that person is in the service
19 of that office, staff, division, department, or unit. The compensation
20 that is awarded for a blood-borne infectious disease shall include,
21 but not be limited to, full hospital, surgical, medical treatment,
22 disability indemnity, and death benefits, as provided by the
23 workers’ compensation laws of this state.

24 (b) The blood-borne infectious disease so developing or
25 manifesting itself in those cases shall be presumed to arise out of
26 and in the course of the employment or service. This presumption
27 is disputable and may be controverted by other evidence, but unless
28 so controverted, the appeals board is bound to find in accordance
29 with it. That presumption shall be extended to a person covered
30 by subdivision (a) following termination of service for a period of
31 three calendar months for each full year of service, but not to
32 exceed 60 months in any circumstance, commencing with the last
33 date actually worked in the specified capacity.

1 (c) The blood-borne infectious disease so developing or
2 manifesting itself in those cases shall in no case be attributed to
3 any disease existing prior to that development or manifestation.

4 (d) For the purposes of this section, “blood-borne infectious
5 disease” means a disease caused by exposure to pathogenic
6 microorganisms that are present in human blood that can cause
7 disease in humans, including those pathogenic microorganisms
8 defined as blood-borne pathogens by the Department of Industrial
9 Relations.

10 (e) (1) This section shall apply to claims for benefits filed or
11 pending on and after April 1, 1995, including, but not limited to,
12 claims for benefits filed after that date that have been previously
13 denied, or that are being appealed after denial.

14 (2) *This subdivision shall only apply to claims for benefits filed*
15 *in the County of Santa Clara.*

16 *SEC. 2. Due to the unique circumstances of the County of Santa*
17 *Clara, with respect to the administration and equitable distribution*
18 *of workers’ compensation benefits to public safety personnel, the*
19 *Legislature hereby finds and declares that a general statute cannot*
20 *be made applicable within the meaning of Section 16 of Article IV*
21 *of the California Constitution. Therefore, the special legislation*
22 *contained in Section 1 of this act is necessarily applicable only to*
23 *the County of Santa Clara.*