

ASSEMBLY BILL

No. 586

Introduced by Assembly Member Huber

February 25, 2009

An act to amend Sections 3212, 3212.6, 3212.8, and 3212.9 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 586, as introduced, Huber. Workers' compensation: public employees: medical conditions.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment.

Existing law provides that, in the case of certain state and local firefighting and law enforcement personnel, the term "injury" includes hernia, blood-borne infectious disease, methicillin-resistant *Staphylococcus aureus* skin infection, 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 extend these provisions to members of the police departments at the University of California (UC) and California State University (CSU). This bill would also extend these provisions, in the case of either tuberculosis or meningitis, to members of police departments of a district and, in the case of a hernia, blood-borne infectious disease, or methicillin-resistant *Staphylococcus aureus* skin infection, to members of fire departments at UC and CSU.

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

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

1 SECTION 1. Section 3212 of the Labor Code is amended to
2 read:
3 3212. In the case of members of a sheriff's office or the
4 California Highway Patrol, district attorney's staff of inspectors
5 and investigators, or of police or fire departments of cities,
6 counties, cities and counties, districts, *the University of California,*
7 *California State University,* or other public or municipal
8 corporations or political subdivisions, whether those members are
9 volunteer, partly paid, or fully paid, and in the case of active
10 firefighting members of the Department of Forestry and Fire
11 Protection whose duties require firefighting or of any county
12 forestry or firefighting department or unit, whether voluntary, fully
13 paid, or partly paid, and in the case of members of the warden
14 service of the Wildlife Protection Branch of the Department of
15 Fish and Game whose principal duties consist of active law
16 enforcement service, excepting those whose principal duties are
17 clerical or otherwise do not clearly fall within the scope of active
18 law enforcement service such as stenographers, telephone
19 operators, and other officeworkers, the term "injury" as used in
20 this act includes hernia when any part of the hernia develops or
21 manifests itself during a period while the member is in the service
22 in the office, staff, division, department, or unit, and in the case
23 of members of fire departments, except those whose principal
24 duties are clerical, such as stenographers, telephone operators, and
25 other officeworkers, and in the case of county forestry or
26 firefighting departments, except those whose principal duties are
27 clerical, such as stenographers, telephone operators, and other
28 officeworkers, and in the case of active firefighting members of
29 the Department of Forestry and Fire Protection whose duties
30 require firefighting, and in the case of members of the warden
31 service of the Wildlife Protection Branch of the Department of
32 Fish and Game whose principal duties consist of active law
33 enforcement service, excepting those whose principal duties are
34 clerical or otherwise do not clearly fall within the scope of active
35 law enforcement service such as stenographers, telephone

1 operators, and other officeworkers, the term “injury” includes
2 pneumonia and heart trouble that develops or manifests itself
3 during a period while the member is in the service of the office,
4 staff, department, or unit. In the case of regular salaried county or
5 city and county peace officers, the term “injury” also includes any
6 hernia that manifests itself or develops during a period while the
7 officer is in the service. The compensation that is awarded for the
8 hernia, heart trouble, or pneumonia shall include full hospital,
9 surgical, medical treatment, disability indemnity, and death
10 benefits, as provided by the workers’ compensation laws of this
11 state.

12 The hernia, heart trouble, or pneumonia so developing or
13 manifesting itself in those cases shall be presumed to arise out of
14 and in the course of the employment. This presumption is
15 disputable and may be controverted by other evidence, but unless
16 so controverted, the appeals board is bound to find in accordance
17 with it. The presumption shall be extended to a member following
18 termination of service for a period of three calendar months for
19 each full year of the requisite service, but not to exceed 60 months
20 in any circumstance, commencing with the last date actually
21 worked in the specified capacity.

22 The hernia, heart trouble, or pneumonia so developing or
23 manifesting itself in those cases shall in no case be attributed to
24 any disease existing prior to that development or manifestation.

25 SEC. 2. Section 3212.6 of the Labor Code is amended to read:

26 3212.6. In the case of a member of a police department of a
27 city ~~or~~, county, *district, the University of California, or California*
28 *State University*, or a member of the sheriff’s office of a county,
29 or a member of the California Highway Patrol, or an inspector or
30 investigator in a district attorney’s office of any county whose
31 principal duties consist of active law enforcement service, or a
32 prison or jail guard or correctional officer who is employed by a
33 public agency, when that person is employed upon a regular,
34 full-time salary, or in the case of members of fire departments of
35 any city, county, or district, or other public or municipal
36 corporations or political subdivisions, when those members are
37 employed on a regular fully paid basis, and in the case of active
38 firefighting members of the Department of Forestry and Fire
39 Protection whose duties require firefighting and first-aid response
40 services, or of any county forestry or firefighting department or

1 unit, where those members are employed on a regular fully paid
2 basis, excepting those whose principal duties are clerical or
3 otherwise do not clearly fall within the scope of active law
4 enforcement, firefighting, or emergency first-aid response service
5 such as stenographers, telephone operators, and other
6 officeworkers, the term “injury” includes tuberculosis that develops
7 or manifests itself during a period while that member is in the
8 service of that department or office. The compensation that is
9 awarded for the tuberculosis shall include full hospital, surgical,
10 medical treatment, disability indemnity, and death benefits as
11 provided by the provisions of this division.

12 The tuberculosis so developing or manifesting itself shall be
13 presumed to arise out of and in the course of the employment. This
14 presumption is disputable and may be controverted by other
15 evidence, but unless so controverted, the appeals board is bound
16 to find in accordance with it. This presumption shall be extended
17 to a member following termination of service for a period of three
18 calendar months for each full year of the requisite service, but not
19 to exceed 60 months in any circumstance, commencing with the
20 last date actually worked in the specified capacity.

21 A public entity may require applicants for employment in
22 firefighting positions who would be entitled to the benefits granted
23 by this section to be tested for infection for tuberculosis.

24 SEC. 3. Section 3212.8 of the Labor Code is amended to read:

25 3212.8. (a) In the case of members of a sheriff’s office, of
26 police or fire departments of cities, counties, cities and counties,
27 districts, *the University of California, California State University,*
28 or other public or municipal corporations or political subdivisions,
29 or individuals described in Chapter 4.5 (commencing with Section
30 830) of Title 3 of Part 2 of the Penal Code, whether those persons
31 are volunteer, partly paid, or fully paid, and in the case of active
32 firefighting members of the Department of Forestry and Fire
33 Protection, or of any county forestry or firefighting department or
34 unit, whether voluntary, fully paid, or partly paid, excepting those
35 whose principal duties are clerical or otherwise do not clearly fall
36 within the scope of active law enforcement service or active
37 firefighting services, such as stenographers, telephone operators,
38 and other office workers, the term “injury” as used in this division,
39 includes a blood-borne infectious disease or methicillin-resistant
40 *Staphylococcus aureus* skin infection when any part of the

1 blood-borne infectious disease or methicillin-resistant
2 Staphylococcus aureus skin infection develops or manifests itself
3 during a period while that person is in the service of that office,
4 staff, division, department, or unit. The compensation that is
5 awarded for a blood-borne infectious disease or
6 methicillin-resistant Staphylococcus aureus skin infection shall
7 include, but not be limited to, full hospital, surgical, medical
8 treatment, disability indemnity, and death benefits, as provided by
9 the workers' compensation laws of this state.

10 (b) (1) The blood-borne infectious disease or
11 methicillin-resistant Staphylococcus aureus skin infection so
12 developing or manifesting itself in those cases shall be presumed
13 to arise out of and in the course of the employment or service. This
14 presumption is disputable and may be controverted by other
15 evidence, but unless so controverted, the appeals board is bound
16 to find in accordance with it.

17 (2) The blood-borne infectious disease presumption shall be
18 extended to a person covered by subdivision (a) following
19 termination of service for a period of three calendar months for
20 each full year of service, but not to exceed 60 months in any
21 circumstance, commencing with the last date actually worked in
22 the specified capacity.

23 (3) Notwithstanding paragraph (2), the methicillin-resistant
24 Staphylococcus aureus skin infection presumption shall be
25 extended to a person covered by subdivision (a) following
26 termination of service for a period of 90 days, commencing with
27 the last day actually worked in the specified capacity.

28 (c) The blood-borne infectious disease or methicillin-resistant
29 Staphylococcus aureus skin infection so developing or manifesting
30 itself in those cases shall in no case be attributed to any disease or
31 skin infection existing prior to that development or manifestation.

32 (d) For ~~the~~ purposes of this section, "blood-borne infectious
33 disease" means a disease caused by exposure to pathogenic
34 microorganisms that are present in human blood that can cause
35 disease in humans, including those pathogenic microorganisms
36 defined as blood-borne pathogens by the Department of Industrial
37 Relations.

38 SEC. 4. Section 3212.9 of the Labor Code is amended to read:
39 3212.9. In the case of a member of a police department of a
40 city, county, ~~or~~ city and county, *district, the University of*

1 *California, or California State University*, or a member of the
2 sheriff’s office of a county, or a member of the California Highway
3 Patrol, or a county probation officer, or an inspector or investigator
4 in a district attorney’s office of any county whose principal duties
5 consist of active law enforcement service, when that person is
6 employed on a regular, full-time salary, or in the case of a member
7 of a fire department of any city, county, or district, or other public
8 or municipal corporation or political subdivision, or any county
9 forestry or firefighting department or unit, when those members
10 are employed on a regular full-time salary, excepting those whose
11 principal duties are clerical or otherwise do not clearly fall within
12 the scope of active law enforcement or firefighting, such as
13 stenographers, telephone operators, and other officeworkers, the
14 term “injury” includes meningitis that develops or manifests itself
15 during a period while that person is in the service of that
16 department, office, or unit. The compensation that is awarded for
17 the meningitis shall include full hospital, surgical, medical
18 treatment, disability indemnity, and death benefits as provided by
19 the provisions of this division.

20 The meningitis so developing or manifesting itself shall be
21 presumed to arise out of and in the course of the employment. This
22 presumption is disputable and may be controverted by other
23 evidence, but unless so controverted, the appeals board is bound
24 to find in accordance with it. This presumption shall be extended
25 to a person following termination of service for a period of three
26 calendar months for each full year of the requisite service, but not
27 to exceed 60 months in any circumstance, commencing with the
28 last date actually worked in the specified capacity.

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