

AMENDED IN SENATE APRIL 22, 2014  
AMENDED IN SENATE MARCH 27, 2014  
AMENDED IN ASSEMBLY MAY 16, 2013  
AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1035**

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**Introduced by Assembly Member John A. Pérez  
(Coauthor: Assembly Member Bonta)**

February 22, 2013

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An act to amend Section 5406 of, and to add and repeal Section 5406.7 of, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1035, as amended, John A. Pérez. Workers' compensation: firefighters and peace officers.

Existing law specifies the time period within which various proceedings may be commenced under provisions of law relating to workers' compensation. With certain exceptions, a proceeding to collect death benefits is required to be commenced within one year from several circumstances, including, but not limited to, from the date of death if it occurs within one year from the date of injury. However, no proceedings may be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

This bill would, only until January 1, 2019, extend the time period to commence proceedings to collect death benefits, if the proceedings are brought by, or on behalf of, a person who was a dependent on the date of death, from 240 weeks from the date of injury to no later than

420 weeks from the date of injury, not to exceed one year after the date of death. This provision would apply only to a specified injury causing death, including cancer, tuberculosis, or a bloodborne infectious disease or methicillin-resistant Staphylococcus aureus skin infections, and would apply only to specified deceased members, including peace officers and active firefighting members. The bill would ~~also include legislative findings and declarations~~ *prohibit the payment of death benefits under these provisions under specified circumstances.*

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. The Legislature finds and declares all of the~~  
2     ~~following:~~  
3     ~~(a) Firefighters and law enforcement officers who contract~~  
4     ~~job-caused illnesses have made the same sacrifice, and earned the~~  
5     ~~same respect, as those who die on the front lines.~~  
6     ~~(b) Often with occupational cancer and certain other job-caused~~  
7     ~~illnesses, an officer’s fight for life stretches over year after painful~~  
8     ~~year.~~  
9     ~~(c) The families of those public safety officers who fight to live~~  
10    ~~through a job-related illness should not be penalized after their~~  
11    ~~loved one has made the ultimate sacrifice.~~  
12    ~~(d) With the advances in medical science and health that have~~  
13    ~~been made in recent decades, it is appropriate to examine whether~~  
14    ~~the existing timeline afforded to a survivor in filing workers’~~  
15    ~~compensation survivor death benefits claim provides sufficient~~  
16    ~~time to commence proceedings to collect death benefits.~~  
17    ~~(e) It is the intent of the legislature to provide adequate time for~~  
18    ~~a grieving family to file a claim for job-related death benefits~~  
19    ~~without an arbitrary penalty.~~  
20    ~~(f)~~  
21    ~~SECTION 1.~~ It is further the intent of the Legislature that the  
22    Administrative Director of the Division of Workers’ Compensation  
23    collect data pursuant to subdivision (a) of Section 3702.2 for the  
24    purpose of determining whether the extended statute of limitations  
25    established by this act provides an adequate timeline for the  
26    families of fallen firefighters and peace officers to commence  
27    proceedings for the collection of death benefits as provided for in

1 this act, such that the Legislature and the Governor, when  
2 considering any extension of the date of repeal of Section 5406.7  
3 of the Labor Code, be informed of the facts surrounding the  
4 mortality rate of public safety officers who succumb to these  
5 job-related diseases.

6 SEC. 2. Section 5406 of the Labor Code is amended to read:

7 5406. (a) Except as provided in Section 5406.5, 5406.6, or  
8 5406.7, the period within which may be commenced proceedings  
9 for the collection of the benefits provided by Article 4  
10 (commencing with Section 4700) of Chapter 2 of Part 2 is one  
11 year from:

12 (1) The date of death if death occurs within one year from date  
13 of injury.

14 (2) The date of last furnishing of any benefits under Chapter 2  
15 (commencing with Section 4550) of Part 2, if death occurs more  
16 than one year from the date of injury.

17 (3) The date of death, where death occurs more than one year  
18 after the date of injury and compensation benefits have been  
19 furnished.

20 (b) Proceedings shall not be commenced more than one year  
21 after the date of death, nor more than 240 weeks from the date of  
22 injury.

23 SEC. 3. Section 5406.7 is added to the Labor Code, to read:

24 5406.7. (a) In addition to the timelines established pursuant  
25 to Section 5406, proceedings for the collection of the benefits  
26 provided by Article 4 (commencing with Section 4700) of Chapter  
27 2 of Part 2 may be commenced after 240 weeks from the date of  
28 injury and no later than 420 weeks from the date of injury, but in  
29 no event more than one year after the date of death, if all of the  
30 following criteria are met:

31 (1) The proceedings are brought for the collection of benefits  
32 by, or on behalf of, a person who was a dependent on the date of  
33 death. The extent of dependency shall be determined in accordance  
34 with the facts as they existed at the time of death of the employee.

35 (2) The injury causing death is one of the following:

36 (A) An injury as defined in Section 3212.1 to a person described  
37 in Section 3212.1.

38 (B) An injury as defined in Section 3212.6 to a person described  
39 in Section 3212.6.

1 (C) An injury as defined in Section 3212.8 to a person described  
2 in Section 3212.8.

3 (3) The date of injury is during the person’s active service in  
4 applicable capacities described in Section 3212.1, 3212.6, or  
5 3212.8.

6 (b) This section does not apply to claims for the collection of  
7 benefits pursuant to Article 4 (commencing with Section 4700) of  
8 Chapter 2 of Part 2 that have already been adjudicated, or otherwise  
9 finalized, or for which the commencement period lapsed on or  
10 before December 31, 2014.

11 (c) *No dependency death benefit shall be payable pursuant to*  
12 *proceedings commenced more than 240 weeks from the date of*  
13 *injury unless either no proceedings were commenced within 240*  
14 *weeks from the date of injury, or, if proceedings were commenced*  
15 *within that period, it has been finally determined that no person*  
16 *is entitled to dependency death benefits pursuant to the proceedings*  
17 *that were commenced within that period.*

18 (e)

19 (d) This section shall remain in effect only until January 1, 2019,  
20 and as of that date is repealed, unless a later enacted statute, that  
21 is enacted before January 1, 2019, deletes or extends that date.