

Assembly Bill No. 1035

Passed the Assembly May 1, 2014

Chief Clerk of the Assembly

Passed the Senate April 28, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 prohibit the payment of death benefits under these provisions under specified circumstances.

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

SECTION 1. It is the intent of the Legislature that the Administrative Director of the Division of Workers' Compensation collect data pursuant to subdivision (a) of Section 3702.2 for the purpose of determining whether the extended statute of limitations established by this act provides an adequate timeline for the

families of fallen firefighters and peace officers to commence proceedings for the collection of death benefits as provided for in this act, such that the Legislature and the Governor, when considering any extension of the date of repeal of Section 5406.7 of the Labor Code, be informed of the facts surrounding the mortality rate of public safety officers who succumb to these job-related diseases.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved _____, 2014

Governor