

ASSEMBLY BILL

No. 1373

Introduced by Assembly Member John A. Pérez

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1373, as introduced, 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 the date of death or, in some cases, from the last furnishing of benefits. However, no proceedings may be commenced more than 240 weeks from the date of injury.

This bill would provide that certain proceedings related to the collection of death benefits of firefighters and peace officers may be commenced within, but no later than, an unspecified period of time and in no event more than one year after the date of death if all of the specified criteria are met, including, but not limited to, that the employee's death is the result of a specified injury.

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 5406 of the Labor Code is amended to
2 read:

3 5406. (a) Except as provided in Section 5406.5 or 5406.6, the
4 period within which may be commenced proceedings for the
5 collection of the benefits provided by Article 4 (commencing with
6 Section 4700) of Chapter 2 of Part 2 is one year ~~from~~: *from any*
7 *of the following:*

8 (a)
9 (1) The date of death where death occurs within one year from
10 date of ~~injury~~; *or injury*.

11 (b)
12 (2) The date of last furnishing of any benefits under Chapter 2
13 (commencing with Section 4550) of Part 2, ~~where~~ *if* death occurs
14 more than one year from the date of ~~injury~~; *or injury*.

15 (c)
16 (3) The date of death, ~~where~~ *if* death occurs more than one year
17 after the date of injury and compensation benefits have been
18 furnished.

19 ~~No such proceedings may~~
20 (b) *Except as provided in subdivision (c), proceedings under*
21 *subdivision (a) shall not be commenced more than one year after*
22 *the date of death, nor more than 240 weeks from the date of injury.*

23 (c) (1) *Proceedings described in subdivision (a) may be*
24 *commenced within, but no later than, _____, and in no event more*
25 *than one year after the date of death, if all of the following criteria*
26 *are met:*

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

31 (B) *The injury causing death is one of the following:*

32 (i) *An injury as defined in Section 3212.1 to a person described*
33 *in Section 3212.1.*

34 (ii) *An injury as defined in Section 3212.6 to a person described*
35 *in Section 3212.6.*

36 (iii) *An injury as defined in Section 3212.8 to a person described*
37 *in Section 3212.8.*

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

4 (2) *This subdivision shall not apply to claims for the collection*
5 *of benefits pursuant to Article 4 (commencing with Section 4700)*
6 *of Chapter 2 of Part 2 that have already been adjudicated, or*
7 *otherwise finalized, or for which the commencement period lapsed*
8 *on or before December 31, 2013.*

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