

**ASSEMBLY BILL**

**No. 2052**

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**Introduced by Assembly Member Gonzalez**

February 20, 2014

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An act to amend Sections 3212, 3212.1, 3212.5, 3212.6, 3212.85, and 3212.9 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2052, as introduced, Gonzalez. Workers' compensation.

Existing law establishes a workers' compensation system to compensate an employee for injuries sustained arising out of and in the course of his or her employment. Existing law designates illnesses and conditions that constitute a compensable injury for various employees, such as California Highway Patrol members, firefighters, and certain peace officers. These injuries include, but are not limited to, hernia, pneumonia, heart trouble, cancer, meningitis, and exposure to a biochemical substances, when the illness or condition develops or manifests itself during a period when the officer or employee is in service of his or her employer, as specified.

This bill would expand the coverage of the above provisions relating to compensable injury, to include all peace officers described under specified provisions of law. To the extent that the bill would apply the provisions to additional local peace officers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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

*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, counties,  
 6 cities and counties, districts or other public or municipal  
 7 corporations or political subdivisions, *or individuals described in*  
 8 *Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of*  
 9 *the Penal Code*, whether those members *or individuals* are  
 10 volunteer, partly paid, or fully paid, and in the case of active  
 11 firefighting members of the Department of Forestry and Fire  
 12 Protection whose duties require firefighting or of any county  
 13 forestry or firefighting department or unit, whether voluntary, fully  
 14 paid, or partly paid, and in the case of members of the warden  
 15 service of the Wildlife Protection Branch of the Department of  
 16 Fish and Game whose principal duties consist of active law  
 17 enforcement service, excepting those whose principal duties are  
 18 clerical or otherwise do not clearly fall within the scope of active  
 19 law enforcement service such as stenographers, telephone  
 20 operators, and other officeworkers, the term “injury” as used in  
 21 this act includes hernia when any part of the hernia develops or  
 22 manifests itself during a period while the member *or individual* is  
 23 in the service in the office, staff, division, department, or unit, and  
 24 in the case of members of fire departments, except those whose  
 25 principal duties are clerical, such as stenographers, telephone  
 26 operators, and other officeworkers, and in the case of county  
 27 forestry or firefighting departments, except those whose principal  
 28 duties are clerical, such as stenographers, telephone operators, and  
 29 other officeworkers, and in the case of active firefighting members  
 30 of the Department of Forestry and Fire Protection whose duties  
 31 require firefighting, and in the case of members of the warden  
 32 service of the Wildlife Protection Branch of the Department of  
 33 Fish and Game whose principal duties consist of active law

1 enforcement service, excepting those whose principal duties are  
2 clerical or otherwise do not clearly fall within the scope of active  
3 law enforcement service such as stenographers, telephone  
4 operators, and other officeworkers, the term “injury” includes  
5 pneumonia and heart trouble that develops or manifests itself  
6 during a period while the member is in the service of the office,  
7 staff, department, or unit. In the case of regular salaried ~~county or~~  
8 ~~city and county peace officers~~ *individuals described in Chapter*  
9 *4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal*  
10 *Code*, the term “injury” also includes any hernia that manifests  
11 itself or develops during a period while the officer is in the service.  
12 The compensation that is awarded for the hernia, heart trouble, or  
13 pneumonia shall include full hospital, surgical, medical treatment,  
14 disability indemnity, and death benefits, as provided by the  
15 workers’ compensation laws of this state.

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

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

29 SEC. 2. Section 3212.1 of the Labor Code is amended to read:

30 3212.1. (a) This section applies to all of the following:

31 (1) Active firefighting members, whether volunteers, partly  
32 paid, or fully paid, of all of the following fire departments:

33 (A) A fire department of a city, county, city and county, district,  
34 or other public or municipal corporation or political subdivision.

35 (B) A fire department of the University of California and the  
36 California State University.

37 (C) The Department of Forestry and Fire Protection.

38 (D) A county forestry or firefighting department or unit.

39 (2) Active firefighting members of a fire department that serves  
40 a United States Department of Defense installation and who are

1 certified by the Department of Defense as meeting its standards  
2 for firefighters.

3 (3) Active firefighting members of a fire department that serves  
4 a National Aeronautics and Space Administration installation and  
5 who adhere to training standards established in accordance with  
6 Article 4 (commencing with Section 13155) of Chapter 1 of Part  
7 2 of Division 12 of the Health and Safety Code.

8 ~~(4) Peace officers, as defined in Section 830.1, subdivision (a)~~  
9 ~~of Section 830.2, and subdivisions (a) and (b) of Section 830.37,~~  
10 ~~of the Penal Code, who are primarily engaged in active law~~  
11 ~~enforcement activities.~~

12 ~~(4) Individuals described in Chapter 4.5 (commencing with~~  
13 ~~Section 830) of Title 3 of Part 2 of the Penal Code.~~

14 (5) (A) Fire and rescue services coordinators who work for the  
15 Office of Emergency Services.

16 (B) For purposes of this paragraph, “fire and rescue services  
17 coordinators” means coordinators with any of the following job  
18 classifications: coordinator, senior coordinator, or chief  
19 coordinator.

20 (b) The term “injury,” as used in this division, includes cancer,  
21 including leukemia, that develops or manifests itself during a period  
22 in which any member *or individual* described in subdivision (a)  
23 is in the service of the department or unit, if the member *or*  
24 *individual* demonstrates that he or she was exposed, while in the  
25 service of the department or unit, to a known carcinogen as defined  
26 by the International Agency for Research on Cancer, or as defined  
27 by the director.

28 (c) The compensation that is awarded for cancer shall include  
29 full hospital, surgical, medical treatment, disability indemnity, and  
30 death benefits, as provided by this division.

31 (d) The cancer so developing or manifesting itself in these cases  
32 shall be presumed to arise out of and in the course of the  
33 employment. This presumption is disputable and may be  
34 controverted by evidence that the primary site of the cancer has  
35 been established and that the carcinogen to which the member *or*  
36 *individual* has demonstrated exposure is not reasonably linked to  
37 the disabling cancer. Unless so controverted, the appeals board is  
38 bound to find in accordance with the presumption. This  
39 presumption shall be extended to a member *or individual* following  
40 termination of service for a period of three calendar months for

1 each full year of the requisite service, but not to exceed 120 months  
2 in any circumstance, commencing with the last date actually  
3 worked in the specified capacity.

4 (e) The amendments to this section enacted during the 1999  
5 portion of the 1999–2000 Regular Session shall be applied to  
6 claims for benefits filed or pending on or after January 1, 1997,  
7 including, but not limited to, claims for benefits filed on or after  
8 that date that have previously been denied, or that are being  
9 appealed following denial.

10 (f) This section shall be known, and may be cited, as the William  
11 Dallas Jones Cancer Presumption Act of 2010.

12 SEC. 3. Section 3212.5 of the Labor Code is amended to read:

13 3212.5. In the case of ~~a member of a police department of a~~  
14 ~~city or municipality, or a member of the State Highway Patrol,~~  
15 ~~when any such~~ *an individual described in Chapter 4.5*  
16 *(commencing with Section 830) of Title 3 of Part 2 of the Penal*  
17 *Code, when the member or individual is employed upon a regular,*  
18 *full-time salary, and in the case of a sheriff or deputy sheriff, or*  
19 *an inspector or investigator in a district attorney’s office of any*  
20 *county, employed upon a regular, full-time salary, the term “injury”*  
21 *as used in this division includes heart trouble and pneumonia which*  
22 *develops or manifests itself during a period while such member,*  
23 *sheriff, or deputy sheriff, inspector or investigator* *the member or*  
24 *individual is in the service of the police department, the State*  
25 *Highway Patrol, the sheriff’s office or the district attorney’s office,*  
26 *as the case may be. The* *the compensation which that* *is awarded*  
27 *for such heart trouble or pneumonia as described in this section*  
28 *shall include full hospital, surgical, medical treatment, disability*  
29 *indemnity, and death benefits as provided by the provisions of this*  
30 *division.*

31 ~~Such heart~~

32 (a) *The heart trouble or pneumonia so developing or manifesting*  
33 *itself shall be presumed to arise out of and in the course of the*  
34 *employment; provided, however, that the member of the police*  
35 *department, State Highway Patrol, the sheriff or deputy sheriff, or*  
36 *an inspector or investigator in a district attorney’s office of any*  
37 *county or individual shall have served five years or more in such*  
38 *that capacity before the presumption shall arise as to the*  
39 *compensability of heart trouble so developing or manifesting itself.*  
40 *This presumption is disputable and may be controverted by other*

1 evidence, but unless so controverted, the appeals board is bound  
2 to find in accordance with it. This presumption shall be extended  
3 to a member *or individual* following termination of service for a  
4 period of three calendar months for each full year of the requisite  
5 service, but not to exceed 60 months in any circumstance,  
6 commencing with the last date actually worked in the specified  
7 capacity.

8 ~~Such heart~~

9 ~~(b) The heart~~ trouble or pneumonia so developing or manifesting  
10 itself in ~~such~~ these cases shall in no case be attributed to any  
11 disease existing prior to ~~such~~ its development or manifestation.

12 ~~The term “members” as used herein shall be limited to those~~  
13 ~~employees of police departments, the California Highway Patrol~~  
14 ~~and sheriffs’ departments and inspectors and investigators of a~~  
15 ~~district attorney’s office who are defined as peace officers in~~  
16 ~~Section 830.1, 830.2, or 830.3 of the Penal Code.~~

17 SEC. 4. Section 3212.6 of the Labor Code is amended to read:

18 3212.6. In the case of ~~a member of a police department of a~~  
19 ~~city or county, or a member of the sheriff’s office of a county, or~~  
20 ~~a member of the California Highway Patrol, or an inspector or~~  
21 ~~investigator in a district attorney’s office of any county whose~~  
22 ~~principal duties consist of active law enforcement service, an~~  
23 ~~individual described in Chapter 4.5 (commencing with Section~~  
24 ~~830) of Title 3 of Part 2 of the Penal Code, or a prison or jail guard~~  
25 ~~or correctional officer who is employed by a public agency, when~~  
26 ~~that person is employed upon a regular, full-time salary, or in the~~  
27 ~~case of members of fire departments of any city, county, or district,~~  
28 ~~or other public or municipal corporations or political subdivisions,~~  
29 ~~when those members or individuals are employed on a regular~~  
30 ~~fully paid basis, and in the case of active firefighting members of~~  
31 ~~the Department of Forestry and Fire Protection whose duties~~  
32 ~~require firefighting and first-aid response services, or of any county~~  
33 ~~forestry or firefighting department or unit, where those members~~  
34 ~~are employed on a regular fully paid basis, excepting those whose~~  
35 ~~principal duties are clerical or otherwise do not clearly fall within~~  
36 ~~the scope of active law enforcement, firefighting, or emergency~~  
37 ~~first-aid response service such as stenographers, telephone~~  
38 ~~operators, and other officeworkers, the term “injury” includes~~  
39 ~~tuberculosis that develops or manifests itself during a period while~~  
40 ~~that member is in the service of that department or office. The~~

1 compensation that is awarded for the tuberculosis shall include  
2 full hospital, surgical, medical treatment, disability indemnity, and  
3 death benefits as provided by the provisions of this division.

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

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

17 SEC. 5. Section 3212.85 of the Labor Code is amended to read:

18 3212.85. (a) This section applies to ~~peace officers described~~  
19 ~~in Sections 830.1 to 830.5, inclusive, of the Penal Code, individuals~~  
20 ~~described in Chapter 4.5 (commencing with Section 830) of Title~~  
21 ~~3 of Part 2 of the Penal Code,~~ and members of a fire department.

22 (b) The term “injury,” as used in this division, includes illness  
23 or resulting death due to exposure to a biochemical substance that  
24 develops or occurs during a period in which any member *or*  
25 *individual* described in subdivision (a) is in the service of the  
26 department or unit.

27 (c) The compensation that is awarded for injury pursuant to this  
28 section shall include full hospital, surgical, medical treatment,  
29 disability indemnity, and death benefits, as provided by this  
30 division.

31 (d) The injury that develops or manifests itself in these cases  
32 shall be presumed to arise out of, and in the course of, the  
33 employment. This presumption is disputable and may be  
34 controverted by other evidence. Unless controverted, the appeals  
35 board is bound to find in accordance with the presumption. This  
36 presumption shall be extended to a member *or individual* following  
37 termination of service for a period of three calendar months for  
38 each full year of the requisite service, but not to exceed 60 months  
39 in any circumstance, commencing with the last date actually  
40 worked in the specified capacity.

1 (e) For purposes of this section, the following definitions apply:

2 (1) “Biochemical substance” means any biological or chemical  
 3 agent that may be used as a weapon of mass destruction, including,  
 4 but not limited to, any chemical warfare agent, weaponized  
 5 biological agent, or nuclear or radiological agent, as these terms  
 6 are defined in Section 11417 of the Penal Code.

7 (2) “Members of a fire department” includes, but is not limited  
 8 to, an apprentice, volunteer, partly paid, or fully paid member of  
 9 any of the following:

10 (A) A fire department of a city, county, city and county, district,  
 11 or other public or municipal corporation or political subdivision.

12 (B) A fire department of the University of California and the  
 13 California State University.

14 (C) The Department of Forestry and Fire Protection.

15 (D) A county forestry or firefighting department or unit.

16 SEC. 6. Section 3212.9 of the Labor Code is amended to read:

17 3212.9. ~~In the case of a member of a police department of a~~  
 18 ~~city, county, or city and county, or a member of the sheriff’s office~~  
 19 ~~of a county, or a member of the California Highway Patrol, or a~~  
 20 ~~county probation officer, or an inspector or investigator in a district~~  
 21 ~~attorney’s office of any county whose principal duties consist of~~  
 22 ~~active law enforcement service, an individual described in Chapter~~  
 23 ~~4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal~~  
 24 ~~Code, when that person is employed on a regular, full-time salary,~~  
 25 ~~or in the case of a member of a fire department of any city, county,~~  
 26 ~~or district, or other public or municipal corporation or political~~  
 27 ~~subdivision, or any county forestry or firefighting department or~~  
 28 ~~unit, when those members are employed on a regular full-time~~  
 29 ~~salary, excepting those whose principal duties are clerical or~~  
 30 ~~otherwise do not clearly fall within the scope of active law~~  
 31 ~~enforcement or firefighting, such as stenographers, telephone~~  
 32 ~~operators, and other officeworkers, the term “injury” includes~~  
 33 ~~meningitis that develops or manifests itself during a period while~~  
 34 ~~that person is in the service of that department, office, or unit. The~~  
 35 ~~compensation that is awarded for the meningitis shall include full~~  
 36 ~~hospital, surgical, medical treatment, disability indemnity, and~~  
 37 ~~death benefits as provided by the provisions of this division.~~

38 The meningitis so developing or manifesting itself shall be  
 39 presumed to arise out of and in the course of the employment. This  
 40 presumption is disputable and may be controverted by other

1 evidence, but unless so controverted, the appeals board is bound  
2 to find in accordance with it. This presumption shall be extended  
3 to a person following termination of service for a period of three  
4 calendar months for each full year of the requisite service, but not  
5 to exceed 60 months in any circumstance, commencing with the  
6 last date actually worked in the specified capacity.

7 SEC. 7. If the Commission on State Mandates determines that  
8 this act contains costs mandated by the state, reimbursement to  
9 local agencies and school districts for those costs shall be made  
10 pursuant to Part 7 (commencing with Section 17500) of Division  
11 4 of Title 2 of the Government Code.

O