

AMENDED IN ASSEMBLY APRIL 8, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2052

Introduced by Assembly Member Gonzalez

February 20, 2014

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

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

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

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

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

33 3212.1. (a) This section applies to all of the following:

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

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

38 (B) A fire department of the University of California and the
39 California State University.

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

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

2 (2) Active firefighting members of a fire department that serves
3 a United States Department of Defense installation and who are
4 certified by the Department of Defense as meeting its standards
5 for firefighters.

6 (3) Active firefighting members of a fire department that serves
7 a National Aeronautics and Space Administration installation and
8 who adhere to training standards established in accordance with
9 Article 4 (commencing with Section 13155) of Chapter 1 of Part
10 2 of Division 12 of the Health and Safety Code.

11 (4) ~~Individuals~~ *Peace officers* described in Chapter 4.5
12 (commencing with Section 830) of Title 3 of Part 2 of the Penal
13 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~~ *a person* described in
23 subdivision (a) is in the service of the department or unit, if the
24 ~~member or individual~~ *person* demonstrates that he or she was
25 exposed, while in the service of the department or unit, to a known
26 carcinogen as defined by the International Agency for Research
27 on Cancer, or as defined 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~~ *person* has demonstrated exposure is not reasonably
37 linked to the disabling cancer. Unless so controverted, the appeals
38 board is bound to find in accordance with the presumption. This
39 presumption shall be extended to a ~~member or individual~~ *person*
40 following termination of service for a period of three calendar

1 months for each full year of the requisite service, but not to exceed
2 120 months in any circumstance, commencing with the last date
3 actually 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 ~~an individual~~ *a peace officer* described
14 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
15 2 of the Penal Code, when the ~~member or individual~~ *person* is
16 employed upon a regular, full-time salary, the term “injury” as
17 used in this division includes heart trouble and pneumonia which
18 develops or manifests itself during a period while the ~~member or~~
19 ~~individual~~ *person* is in the service the compensation that is awarded
20 for heart trouble or pneumonia as described in this section shall
21 include full hospital, surgical, medical treatment, disability
22 indemnity, and death benefits as provided by the provisions of this
23 division.

24 (a) The heart trouble or pneumonia so developing or manifesting
25 itself shall be presumed to arise out of and in the course of the
26 employment; provided, however, that ~~the member or individual~~
27 ~~the person~~ shall have served five years or more in that capacity
28 before the presumption shall arise as to the compensability of heart
29 trouble so developing or manifesting itself. This presumption is
30 disputable and may be controverted by other evidence, but unless
31 so controverted, the appeals board is bound to find in accordance
32 with it. This presumption shall be extended to a ~~member or~~
33 ~~individual~~ *person* following termination of service for a period of
34 three calendar months for each full year of the requisite service,
35 but not to exceed 60 months in any circumstance, commencing
36 with the last date actually worked in the specified capacity.

37 (b) The heart trouble or pneumonia so developing or manifesting
38 itself in these cases shall in no case be attributed to any disease
39 existing prior to its development or manifestation.

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

1 3212.6. (a) (1) In the case of ~~an individual~~ *a peace officer*
 2 *described in Chapter 4.5 (commencing with Section 830) of Title*
 3 *3 of Part 2 of the Penal Code, or a prison or jail guard or*
 4 *correctional officer who is employed by a public agency, when*
 5 *that person is employed upon a regular, full-time salary, or in the*
 6 *case of ~~members of a member of a fire departments~~ department*
 7 *of any city, county, or district, or other public or municipal*
 8 *corporations or political subdivisions, when ~~those members or~~*
 9 *individuals ~~are~~ that person is employed on a regular fully paid*
 10 *basis, and in the case of an active firefighting ~~members~~ member*
 11 *of the Department of Forestry and Fire Protection whose duties*
 12 *require firefighting and first aid response services, or of any county*
 13 *forestry or firefighting department or unit, ~~where those members~~*
 14 *are if that person is employed on a regular fully paid basis,*
 15 *excepting those ~~except persons~~ whose principal duties are clerical*
 16 *or otherwise do not clearly fall within the scope of active law*
 17 *enforcement, firefighting, or emergency first aid response service*
 18 *such as stenographers, telephone operators, and other*
 19 *officeworkers, the term “injury” includes tuberculosis that develops*
 20 *or manifests itself during a period while that member is in the*
 21 *service of that department or office. The compensation that is*
 22 *awarded for the tuberculosis shall include full hospital, surgical,*
 23 *medical treatment, disability indemnity, and death benefits as*
 24 *provided by the provisions of this division.*

25 ~~The~~
 26 (2) ~~The~~ *tuberculosis ~~so~~ developing or manifesting itself as*
 27 *described in paragraph (1) shall be presumed to arise out of and*
 28 *in the course of the employment. This presumption is disputable*
 29 *and may be controverted by other evidence, but unless so*
 30 *controverted, the appeals board is bound to find in accordance*
 31 *with it. This presumption shall be extended to a ~~member or~~*
 32 *individual ~~person~~ described in paragraph (1) following termination*
 33 *of service for a period of three calendar months for each full year*
 34 *of the requisite service, but not to exceed 60 months in any*
 35 *circumstance, commencing with the last date actually worked in*
 36 *the specified capacity.*

37 ~~A~~
 38 (b) *A public entity may require applicants for employment in*
 39 *firefighting positions who would be entitled to the benefits granted*
 40 *by this section to be tested for infection for tuberculosis.*

1 SEC. 5. Section 3212.85 of the Labor Code is amended to read:
2 3212.85. (a) This section applies to ~~individuals~~ *a peace officer*
3 described in Chapter 4.5 (commencing with Section 830) of Title
4 3 of Part 2 of the Penal Code, and ~~members~~ *a member* of a fire
5 department.

6 (b) The term “injury,” as used in this division, includes illness
7 or resulting death due to exposure to a biochemical substance that
8 develops or occurs during a period in which ~~any member or~~
9 ~~individual~~ *a person* described in subdivision (a) is in the service
10 of the department or unit.

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

15 (d) The injury that develops or manifests itself in these cases
16 shall be presumed to arise out of, and in the course of, the
17 employment. This presumption is disputable and may be
18 controverted by other evidence. Unless controverted, the appeals
19 board is bound to find in accordance with the presumption. This
20 presumption shall be extended to a ~~member or individual~~ *person*
21 *described in subdivision (a)* following termination of service for
22 a period of three calendar months for each full year of the requisite
23 service, but not to exceed 60 months in any circumstance,
24 commencing with the last date actually worked in the specified
25 capacity.

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

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

32 (2) ~~“Members”~~ “*Member of a fire department*” includes, but is
33 not limited to, an apprentice, volunteer, partly paid, or fully paid
34 member of any of the following:

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

37 (B) A fire department of the University of California and the
38 California State University.

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

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

1 SEC. 6. Section 3212.9 of the Labor Code is amended to read:
 2 3212.9. In the case of ~~an individual~~ *a peace officer* described
 3 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
 4 2 of the Penal Code, when that person is employed on a regular,
 5 full-time salary, or in the case of a member of a fire department
 6 of any city, county, or district, or other public or municipal
 7 corporation or political subdivision, or any county forestry or
 8 firefighting department or unit, ~~when those members are~~ *the person*
 9 *is* employed on a regular full-time salary, ~~excepting those~~ *except*
 10 *persons* whose principal duties are clerical or otherwise do not
 11 clearly fall within the scope of active law enforcement or
 12 firefighting, such as stenographers, telephone operators, and other
 13 officeworkers, the term “injury” includes meningitis that develops
 14 or manifests itself during a period while that person is in the service
 15 of that department, office, or unit. The compensation that is
 16 awarded for the meningitis shall include full hospital, surgical,
 17 medical treatment, disability indemnity, and death benefits as
 18 provided by the provisions of this division.

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

28 SEC. 7. If the Commission on State Mandates determines that
 29 this act contains costs mandated by the state, reimbursement to
 30 local agencies and school districts for those costs shall be made
 31 pursuant to Part 7 (commencing with Section 17500) of Division
 32 4 of Title 2 of the Government Code.