



Legislative and Industry Updates – March 2019

The following is an update on legislative activity which may impact the FASIS Workers' Compensation program:

LEGISLATIVE ACTIVITY

AB 932 – Off-Duty Firefighters (Low)

Much like the intent of AB 1749 regarding coverage of off-duty Police Officers, this bill aims to specify coverage for off-duty Firefighters. The bill was proposed in response to the Las Vegas shooting incident from which several off-duty Police Officers in attendance at the concert have filed Workers' Compensation claims for injury, resulting in litigation regarding compensability as related to Labor Code 3600.2(a).

Labor Code 3600.2(a) had provided that a peace officer shall be covered for workers' compensation for activities taken in preservation of peace while off duty, but the activity must occur in the State of California. As the Las Vegas shooting incident occurred in the State of Nevada, coverage under this code was not provided. Governor Brown had approved AB 1749, allowing employer's the option to extend coverage to peace officers while off duty and engaged in activities that protect and serve the public while outside of the State of California. This bill would expand and specify the scope of Labor Code 3600.1 (specific to firefighters) that coverage would apply when a firefighter engages in a fire-suppression or rescue operation, or the protection or preservation of life or property, outside of this state. As with AB 1749, CAJPA is working with the author on amendments to this bill. The bill has been referred to Committee on Insurance for review.

AB 1116– Firefighters: Peer Support (Grayson)

With intent to “enable critically needed, confidential peer support and crisis referral services for California’s firefighters” this bill would, until January 1, 2025, create the Firefighter Peer Support and Crisis Referral Services Pilot Program. For purposes of the act, the bill would define a “peer support team” as a team composed of emergency service personnel, hospital staff, clergy, and educators who have been appointed to the team by a Peer Support Labor-Management Committee, as defined, and who have completed a peer support training course developed and delivered by the California Firefighter Joint Apprenticeship Committee, as specified.

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The bill would provide that communication made by emergency service personnel or a peer support team member while support services are being provided is confidential and would prohibit disclosure of such a communication in a civil, administrative, or arbitration proceeding, except under limited circumstances, including, among others, when disclosure is reasonably believed to be necessary to prevent death, substantial bodily harm, or commission of a crime.

The bill would also provide that, except for an action for medical malpractice, a peer support team member providing peer support services as a member of a peer support team is not liable for damages relating to an act, error, or omission in performing peer support services, unless the act, error, or omission constitutes gross negligence or intentional misconduct. The bill would further provide that a communication made by emergency service personnel to a crisis hotline or crisis referral service, as defined, is confidential and shall not be disclosed in a civil, administrative, or arbitration proceeding, except as specified. The bill has been referred to Committee on Health.

AB 1400 – Fire Service Personnel (Kamlager-Dove)

Existing law provides that in the case of active firefighting members of certain fire departments, a compensable injury includes cancer that develops or manifests itself during the period when the firefighter demonstrates that the firefighter was exposed while in the service of the public agency to a known carcinogen, as defined. Existing law establishes a presumption that the cancer in these cases arose out of, and in the course of, employment, unless the presumption is controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer.

With the intent to broaden the scope of presumptive injuries as related to carcinogen exposures, this bill would make that presumption applicable to “fire service personnel” with exposure to active fires or health hazards resulting from firefighting operations, rather than “active firefighting members”, as the current language states. CAJPA’s position on this bill is pending. The bill has been referred to the Committee on Insurance.