



Legislative and Industry Updates – June 2019

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

LEGISLATIVE ACTIVITY

AB 932 - Firefighter Injuries Out of State (Low and Petrie-Norris)

Similar to AB 1749 from the last session which expanded out of state coverage for Peace Officers **IF** the employer had passed a resolution agreeing to provide coverage, this proposal expands out of state coverage for Firefighters, including those which may have been injured during the Las Vegas shooting 10/01/17. At this time, one of the primary differences in the bill as proposed is that it **DOES NOT** require a resolution from the employer to provide coverage.

The Legislative Analysis provided April 26, 2019 states: *"In order to obtain workers' compensation benefits under the bill, injured firefighters would have to prove that they were engaging in rescue and protective actions, as opposed to merely being one of the many innocent bystanders shot by the sniper. This is true of virtually all workers' compensation claims – the burden is on the employee to show that the injuries grew out of activities that are job/duty related."* The bill has passed to the Senate.

SB 542 - PTSD Presumption (Stern)

This bill will add to the 10 current presumptive injuries for Safety Officers, coverage for "mental health condition or mental disability that results in a diagnosis of post-traumatic stress or mental health disorder", and further states this provision would apply to claims filed or pending on or after 01/01/17, even if previously denied. Effectively, applying a presumption to a claim two years after it was filed.

Appropriate medical and psychiatric care is to be provided to all injured workers as it relates to their employment. While this bill does reference the care provided, it first addresses determination of compensability through the presumptive injury. Combining post-traumatic stress (PTSD) and a general mental health disorder as one presumptive injury opens up the psychiatric injury to wide interpretation, leading to increased costs to Public Entities which may not relate to actual employment injury.

The Senate Appropriations Committee has stated: "Extending coverage of presumptive injuries to specified mental health conditions would likely result in increases to workers' compensation

FASIS Industry Updates – June 2019

premiums. Thus, the bill will result in higher workers' compensation premium costs for state departments, as the State is a direct employer. The magnitude is unknown, but potentially in the millions of dollars annually across all state departments." The bill has passed to the Assembly.

AB 1400 – Fire Service Personnel (Kamlager-Dove)

Existing law provides for a presumption of compensability for cancer arising from the employment of active firefighters. This bill as amended would expand that presumption to "Fire Fighting Operations: Civilian Employees".

There is no current definition within the bill for "Fire Fighting Operations: Civilian Employees", other than "whose job duties cause the employees to be regularly exposed to active fires or health hazards directly resulting from firefighting operations, such as exposure to toxic chemicals deposited on firefighting equipment". Without clarification, this presumption can apply to any and all staff and volunteers of a Fire Station, who may or may not have any more DIRECT exposure to carcinogens than the general public.

This expansion of the cancer presumption significantly increases the financial exposure for Public Entities. The bill has passed to the Senate.