



March 31, 2015

The Honorable Mike Gipson
California State Assembly
State Capitol, Room 4164
Sacramento, CA 95814

**RE: AB 511 (Gipson) – Workers’ Compensation: Public Safety Presumptions
As introduced 2/23/15 - OPPOSE**

Dear Assembly Member Gipson,

The coalition of organizations – California Coalition on Workers’ Compensation (CCWC), California State Association of Counties (CSAC), League of California Cities (LCC), California Association of Joint Powers Authorities (CAJPA), Alpha Fund, Association of California Healthcare Districts (ACHD) and the CSAC Excess Insurance Authority (CSAC-EIA), must respectfully oppose your Assembly Bill 511, which rewrites presumption statutes for public safety officers and introduces new and unnecessary labor code provisions related to the provision of presumptions through local ordinance or collective bargaining agreement.

Collective Bargaining Agreements and Local Ordinances

AB 511 adds language to Section 3212.1 of the Labor Code that allows new categories of peace officers to be eligible for the cancer presumption provided to some public safety officers. The language in the bill is meant to make this possible through a collective bargaining agreement (CBA) or local ordinance. We are opposed to this added language because it’s unnecessary. Current law does not restrict an employer’s ability to provide workers’ compensation benefits above and beyond those mandated in the labor code – whether through a local ordinance or other process. Similarly, Section 3201.7 allows any employer in the state to negotiate a labor-management agreement, so long as it does not diminish statutorily required benefits that provides for an alternative dispute resolution (ADR) process. That ADR process can directly address procedures for accepting these types of claims.

Presumption Revisions

We are concerned with the complete deletion and re-crafting of Labor Code Sections 3212, 3212.5, 3212.6, 3212.85, and 3212.9. These statutes, which dictate eligibility for presumptions of compensability in the workers’ compensation system, have a long history in the workers’ compensation system. They are complex, and have been the subject of much litigation. Our coalition is concerned that the revision and restructuring contained in AB 511 could have unintended consequences. While we would support a process by which these statutes can be updated, we would urge a far more broad conversation about presumption eligibility prior to any such action.

Tax implications

AB 511 also has implications regarding taxable status of locally adopted ordinances or agreements providing higher benefits for certain presumptive conditions. Under current law, Labor Code Section 4850 provides **for full salary without deduction of taxes for up to 365 days** following an industrial injury to safety personnel designated by state statute. Today, local ordinances or benefits or those negotiated through a CBA over the statutory amount are permitted, but are subject to income tax.

If enacted, AB 511 would provide opportunities for affected public safety personnel to receive more in temporary disability benefits than they receive in salary on the job, plus the bonus of having those additional paid benefits tax free. As a result, public employers are concerned that AB 511 sends the wrong message to public safety personnel with industrial disability or illnesses by providing a new financial incentive to stay off work longer than necessary.

CALIFORNIA STATE
ASSOCIATION OF
COUNTIES



LEAGUE OF CALIFORNIA
CITIES



CALIFORNIA
ASSOCIATION OF JOINT
POWERS AUTHORITIES



CALIFORNIA COALITION
ON WORKERS'
COMPENSATION



CSAC EXCESS
INSURANCE AUTHORITY



ASSOCIATION OF
CALIFORNIA
HEALTHCARE DISTRICTS



ALPHA FUND

For these reasons, our organizations are respectfully opposed to AB 511. Should you have any questions, please do not hesitate to contact Jason Schmelzer (CCWC) at 446-4656, ext. 1015, Faith Conley (CSAC) at 650-8117, Alicia Lewis (LCC) at 658-8222, Julianne Broyles (CAJPA) at 441-5050, Amber King (Alpha Fund, ACHD) at 266-5207 and Michael W. Pott (CSAC-EIA) at 916-850-7300.

cc: Members and Consultants, Assembly Insurance Committee
Christine Baker., Director, Department of Industrial Relations
Destie Overpeck, Acting Director, Division of Workers' Compensation
Tom Dyer, Chief Deputy Legislative Secretary, Office of Governor Brown