



June 9, 2023

The Honorable Lisa Calderon
Chair, Assembly Insurance Committee
1021 O Street, Suite 4650
Sacramento, CA 95814

RE: SB 623 (Laird) – Workers’ compensation: post-traumatic stress disorder
Oppose

Dear Chair Calderon,

The undersigned organizations must respectfully **OPPOSE SB 623 (Laird)**, which is a substantial expansion of California’s current workers’ compensation presumption for Post Traumatic Stress Disorder (PTSD) to public safety dispatchers and communications workers. Our members recognize that dispatchers and other emergency communicators serve honorably and fill a vital role in our emergency response system, and that some of these folks will suffer from PTSD as a result of being exposed to traumatic situations. However, there is no evidence that normal operation of our workers’ compensation system is failing to provide benefits or that setting aside employer protections in favor of a presumption is warranted. SB 623 also prematurely extends the sunset date on the existing law by seven years despite a continued lack of objective evidence justifying the presumption. We respectfully urge you to vote “no” when this bill is heard in the Senate Labor, Public Employment and Retirement Committee.

California’s workers’ compensation system treats psychiatric injuries somewhat differently than physical injuries or illnesses, and that is because the rules acknowledge that psychiatric injury tends to be far more

complex in terms of causation. While work can be a stressor in the life of an employee, far more of our lives are lived outside of the workplace and psychiatric injuries are subjective in terms of causation. Because of this, California law requires that “the actual events of employment” be the predominant cause (51%) of psychiatric injury. If the psychiatric injury is the result of violence or a violent event in the workplace, then the threshold is lower (35-40%). California law also protects employers from claims of psychiatric injury if a good faith, nondiscriminatory personnel action (bad review, termination, etc.) was largely responsible for the psychiatric injury. Psychiatric injuries have been repeatedly used as a center of fraud and abuse in California’s workers’ compensation system, and the protections in existing law are there for a reason. Undermining those protections with a presumption without any evidence of a problem only serves to open the door to abuse and fraud.

SB 623 proposes to add several classifications of state employed firefighters, local public safety dispatchers, and a variety of other communications employees to an existing presumption statute that is scheduled to sunset on January 1, 2025. The current presumption applies to certain peace officers and firefighters and was established by SB 542 (Stern, 2019) despite a complete lack of data or analysis objectively demonstrating that California’s employer-funded system of no-fault workers’ compensation – a system required to be “liberally construed” by judges when a dispute arises – had any problems with respect to these types of claims. The legislature adopted this legislation on the strength of anecdotal claims from the labor unions who sponsored and supported the bill, but the sunset was added to the bill in the Assembly Insurance Committee so that the legislature could collect objective evidence related to the policy and reconsider the situation when sunset required legislative action to reauthorize. SB 623 proposes to extend that sunset date by seven years despite a continued lack of evidence to justify the policy.

Retired Assemblymember Tom Daly, then Chair of the Assembly Insurance Committee, penned a letter (attached) to the Executive Director of the Commission on Health and Safety and Workers’ Compensation (CHSWC) asking for extensive analysis be completed about this bill and noting that “presumptions should be narrowly tailored on the basis of sound empirical data”. The Commission did attempt to study this issue and even sought public comment on a draft study from the Rand Corporation. That study has minimal findings but showed minimal need for a presumption, but it did show an increased cost in the tens of millions of dollars.

It is simply premature to propose any expansion of the current presumption until the analysis has been completed on the original legislation. There is no objective basis to evaluate the operation of current law, the need for this expansion, or the impact of stripping away protections for taxpayer-funded public entities. It is clear that SB 623 would drive up costs for struggling public entities that are trying to provide emergency services, but it’s not at all clear that a presumption is needed for these workers to fairly access the workers’ compensation system.

For these reasons and more, we respectfully **OPPOSE SB 623 (Laird)** and respectfully urge you to vote **NO**.

Sincerely,

American Property Casualty Insurance Association
California Association of Joint Powers Authorities
California Coalition on Workers’ Compensation
California Joint Powers Insurance Authority
California Schools Joint Powers Authority

California Special District Association
California State Association of Counties
County of Monterey
Exclusive Risk Management Authority of California
Golden State Risk Management Authority
League of California Cities
Northern California Cities Self Insurance fund
Northern California Special Districts Insurance Authority
Public Risk Innovation, Solutions and Management
Redwood Empire Schools Insurance Group
Rural County Representatives of California
Self Insurance Risk Management Authority
Small Cities Organized Risk Effort
The Public Entity Risk Management Authority
West San Gabriel Workers Compensation JPA

Cc: Assembly Insurance Committee
Senator Laird