



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

*****UPDATED VERSION*****

April 28, 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 amended 4/20/15 - OPPOSE
To be heard May 6, 2015 – Assembly Insurance Committee**

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. This bill would expand eligibility for special workers’ compensation benefits that are limited in current law to only certain categories of peace officers.

Presumptions for Public Safety Officers

California law states that injuries are covered by workers’ compensation if the injury is suffered while in the “course and scope of employment.” That essentially means that injuries are covered if the worker is at work engaged in any work-related activity. Injured workers have the burden of demonstrating that their injury meets this test, which they generally do by providing the details of their injury at the time a claim is filed. If there is a dispute over the facts of an injury, a decision is rendered by an administrative law judge at the Worker’s Compensation Appeals Board (WCAB). That judge is already required by Labor Code §3202 to “liberally construe” California law “with the purpose of extending their benefits for the protection of person injured in the course of their employment.” This provision essentially requires judges to “err on the side of caution” when evaluating disputed workers’ compensation claims.

For some injuries suffered by some workers, California extends even more substantial legal protections. In addition to the “liberal construction” protections conferred by Labor Code §3202, California offers some peace officers and firefighters a legal presumption that some injuries – such as cancer, heart trouble, pneumonia, and hernias – are work related. The result is that the burden of proof is shifted to the employer to prove a negative – that the injury did not occur at work. This, of course, has to be done through a court system that is legally-bound to “liberally construe” the laws of the state “with the purpose of extending benefits”. This combination of laws creates a legal environment in which it is virtually impossible for state and local agencies to disprove questionable claims for some very expensive types of injuries. Our organizations have not been, and are not currently supportive of the establishment or expansion of presumption laws in California.

AB 511 Expands Eligibility for Presumptions

AB 511 would increase the number of peace officers that are eligible for several presumptions – including hernias, heart trouble, and pneumonia. This is accomplished by expanding all of the current presumption laws to include all “individuals described” in several Penal Code sections regarding the definition of a peace officer. This represents a massive expansion of presumptions that will result in significant new costs for cities, counties, special districts, universities, the state, and more.

Need For and Cost of AB 511

AB 511 would increase the number of state and municipal peace officers that are statutorily entitled to an automatic legal presumption, rarely if ever successfully challenged by employers, that certain injuries like hernia, pneumonia, and heart troubles are caused by work. We are aware of no objective analysis that substantiates a need for the massive expansion of applicability for presumptions. Additionally, we have seen no analysis of the potential cost associated with the changes that would result with the passage of this bill.

Adds New Costs for Employers

We believe that AB 511 would add substantial new costs for public sector employers in the state of California. Unfortunately, workers' compensation costs for all employers continue to rise even following recent reform legislation (Chapter 363, Statutes of 2012) that provided a \$1 billion infusion of benefits for all injured workers in exchange for more than \$1 billion in projected savings. Unfortunately, the savings portion of that reform effort has yet to materialize in a meaningful way while the benefit increase is projected to come in higher than expected.

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