

## Governor's Desk Cleared: CCWC Staves Off the Ugliest of Problematic Workers' Comp Proposals

The California State Legislature concluded the first year of the 2023-2024 legislation session on Thursday, September 14. The legislature introduced approximately 2,600 individual pieces of legislation in 2023, of which 1,046 were passed by both houses and sent to Governor Gavin Newsom for signature or veto. October 14 marked the constitutional 30-day deadline for Governor Newsom to act on all bills that have been presented to him for consideration.



When the dust settled Governor Newsom had vetoed just under 15% of the bills passed by the legislature, including some high-profile priorities for organized labor. The California Coalition on Workers' Compensation (CCWC) monitored approximately three dozen pieces of legislation this year for potential impact to our workers' compensation system. CCWC took active positions on roughly a dozen individual bills in 2023 and worked with other employers, insurers, and system stakeholders to seek their passage or defeat.

### CCWC Enjoyed Early Success in 2023

CCWC worked to defeat several problematic proposals before they could be passed by the legislature:

- [AB 594](#) by Assemblymember Brian Maienschein (D - San Diego) would have allowed local prosecutors and city attorneys to enforce every provision of the labor code. While a pared-back version of this bill was signed by Governor Newsom, CCWC led the charge to remove workers' compensation from the scope of the bill. The California Nurses Association again introduced a bill to create a presumption for hospital workers who provide direct patient care in hospitals.
- [AB 597](#) by Assemblymember Freddie Rodriguez (D - Pomona) and [AB 1107](#) by Assemblymember Mathis (R - Hanford) would have expanded the existing PTSD presumption to include various public safety personnel. CCWC worked with our public entity members to organize an opposition coalition and the bills were ultimately stopped in the first policy committee.
- [AB 1156](#) by Assemblymember Mia Bonta (D - Oakland) would have established a presumption for both private and public sector hospital workers that covers cancer, infectious diseases, respiratory illnesses including COVID-19, and all musculoskeletal injuries.
- [SB 631](#) by Senator Dave Cortese (D - San Jose) proposed a study of gender equity issues in the workers' compensation system. CCWC opposed this measure because the study was to be conducted by the UC Berkeley Labor Center, which many employers believe lacks objectivity. The bill was ultimately held in the Assembly Appropriations Committee.
- [SB 636](#) by Senator Dave Cortese (D - San Jose) was introduced to require doctors who conduct utilization review for private sector employers to be licensed in the State of California. Proponents of the measure indicated that they would seek to apply the licensure standard systemwide if this more limited policy didn't cause any concerns. The bill was ultimately shelved at the end of the session.

While CCWC did enjoy early success, two key bills opposed by CCWC were passed by the legislature and sent to Governor Newsom for consideration.

### Temporary Disability (TD) and Medical Treatment Disputes

[AB 1213](#) by Assemblymember Liz Ortega (D - San Leandro) would have allowed additional temporary disability outside of the 104-week benefit cap in situations where a UR denial is overturned by IMR. Specifically, the bill would have excluded from the cap any temporary disability payable during the period between a UR denial and the IMR overturn of that UR denial. The bill, which was sponsored by the California Applicant Attorneys Association (CAAA), somewhat curiously limited the amount of TD that could be added to the cap per overturn to 90 days even though the law only allows 75 days after a UR denial to complete IMR. The law also included a January 1, 2027, sunset date, which means the legislature would have to reauthorize the law to make it permanent.

Take, for example, an injured worker who has two UR denials for treatment requests that are overturned by IMR, and 60 days passed between the date of each UR denial and the subsequent IMR overturn. Under the provisions in AB 1213, that injured worker would have an additional 120 days of temporary disability available if they hit the 104-week cap and need additional benefits. The purpose, according to CAAA, was to avoid punishing injured workers for delays in the medical treatment approval process that were not their fault.

CCWC was open to working with the author and CAAA, and had two major concerns with the bill:

- The bill would unintentionally create more delays for injured workers by spurring additional Independent Medical Review (IMR). If additional benefits can be secured through the successful pursuit of IMR, then applicant attorneys are likely to trigger IMR more frequently. Because employers consistently prevail in IMR disputes, this increase in IMR would lead to more delay for injured workers.
- California has a notoriously complex workers' compensation system where the cost of delivering benefits is quite high, and system friction drives litigation. According to a [CWCI report](#), AB 1213 could only conceivably benefit fewer than 1% of injured workers. CCWC was concerned that a policy with such limited benefits would disproportionately add to the complexity of the system.

CCWC offered amendments to Assemblymember Ortega that would have removed our opposition to the bill by addressing the concerns outlined above. Unfortunately, Assemblymember and her sponsors rejected these commonsense amendments and sought to have the bill signed over our objections.

**Governor Newsom, however, vetoed AB 1213 and noted that the bill "does not strike the right balance."** The Governor's [veto message](#) does not shut the door on future attempts at negotiating this policy.

### Public Safety Post-Traumatic Stress Injury (PTSI) Presumptions

There were several pieces of legislation introduced in 2023 that sought to expand to create PTSI presumptions for new classes of public safety employees. The most consequential of these bills was [SB 623](#) by Senator John Laird (D - Santa Cruz), which initially proposed to expand the existing PTSI presumption to apply to dispatchers and other emergency communicators and extend the sunset from 2025 to 2032.

CCWC and other public employers opposed SB 623 because proponents brought forward no information to support the need for the bill. Presumptions make it almost impossible for public agencies to reject invalid claims and protect taxpayers, so employers do not generally support the establishment of new presumptions without some objective justification. Fortunately, the bill was amended late in the legislative session to remove the expansion and instead study the issue to help policymakers proceed based on sound data and analysis.

Amendments dated September 7, 2023, require the Commission on Health and Safety and Workers' Compensation (CHSWC) to study both the current presumption, and the proposed expansion. The amendments also extend the sunset date to January 1, 2028, to give CHSWC time to complete the report and send it to the legislature. Despite this major shift, CCWC and other employers still requested a veto because the scope of the study by CHSWC was lacking. We argued that the bill could be repeated in 2024 and the study scope improved, but Governor Newsom opted to sign the bill over our objections.

### Looking Ahead

The legislature will return to Sacramento the first week in January 2024, kicking off the second year of their 2023-2024 legislative session. Many, but not all, of the bills introduced that did not pass in 2023 will be eligible for consideration in 2024; however, any bill introduced in 2023 must pass out of its house of origin by January 31.

Both houses of the state legislature ended the year with a new leader either in place or selected for eventual ascension. Assemblymember Robert Rivas (D - Hollister) [prevailed in his sustained campaign](#) to depose and replace Speaker Anthony Rendon (D - Los Angeles) and took the helm officially on June 30. Senate President Pro Tempore Toni Atkins, who will soon leave the Senate due to term limits, worked with her caucus to elect a successor. While the precise transition timeline hasn't been announced, Senator Mike McGuire (D - Santa Rosa) will be the next [President Pro Tempore of the Senate](#). McGuire, though, is termed out of office in 2026 so his leadership will be short-lived, and he's seen as more of a transitional figure. These changes could mean new leadership in key policy committees in 2024, but no announcements have been made.

CCWC's [Government Relations Committee](#), chaired by Gideon Baum of California Association of Hospitals and Health Systems, is proactively preparing for next year's legislative session. We look forward to engaging with you in the coming months on CCWC's top priority policy objectives and agenda.

In the meantime, we encourage you to secure your spot today at next year's 20th Annual Conference: Legislative & Educational Forum, presented by Sedgwick, which will be held on June 12-14, 2024, at the Disney's Grand Californian Hotel & Spa in Anaheim, CA. Visit the [event website](#) to learn about opportunities to sponsor, exhibit and attend.