



REVIEW OF WORKERS' COMPENSATION BILLS ENACTED OR VETOED BY THE GOVERNOR

By Scott A. O'Mara

Assembly Bill 1749, introduced by Assembly Member Tom Daly, allows cities and counties to cover officer injuries allegedly sustained off duty while they are working outside the state of California. Newsletter 2017 Issues #10 and #12, as well as Newsletter 2018 Issues #1 and #2, discuss this bill.

The final bill which was signed by Gov. Brown opens the door for officers to receive this benefit, but it does not provide complete protection for safety members injured while upholding the Constitution by trying to protect people outside the state of California, as it allows latitude for the entities involved to either accept or deny liability for such injuries.

Previously, the window of availability for families of officers who succumb to cancer, blood-borne infectious disease and/or tuberculosis to access death benefits was limited to 240 weeks following an officer's death. In 2015, this window was extended to 420 weeks, but with the provision that this extension was to sunset as of 1/1/19.

Senate Bill 1086, introduced by Senator Toni Atkins, and discussed in Newsletter 2018 Issue #2, recognized the need for elimination of the 1/1/19 sunset provision attached to Labor Code §5407 to allow for continuation of the 420-week extension for family members of deceased safety officers to access death benefits. Fortunately, Gov. Brown has signed this bill into law, thereby removing the sunset provision attached to this much-needed benefit.

Unfortunately, however, a series of other much-needed bills were vetoed by Gov. Brown. One of the more troubling vetoes concerned Assembly Bill 479, which was introduced by Lorena Gonzalez Fletcher and subsequently vetoed on 9/23/18. This bill recognized that women who suffer from breast cancer found to be job-related have substantial impairments besides the surgical removal of the breast, and sought to correct this wrong so those women who suffer from this condition receive reasonable compensation relative to the damage and harm done to them. This bill needs to

be reintroduced to the new governor, and that individual needs to understand the substance of this measure and the need for the protection it would offer.

Senate Bill 899, introduced by Sen. Pan on 1/16/18, and discussed in Newsletter 2018 Issue #6, sought to identify and eliminate discrimination which occurs to California workers based upon their heredity or genetic background. As readers are aware, the 1964 Civil Right Act and the 1990 Americans with Disabilities Act, as well as many subsequent Court decisions, have dealt with the injustice caused by discrimination, correcting the wrongful practices which previously were allowed for many, many years. Unfortunately, SB 899 also was vetoed by Gov. Brown on 9/23/18. Again, this bill needs to be reintroduced to the new governor relative to the discriminatory conduct which is currently allowed based on hereditary or genetic background – whether the individual is White, Black, Hispanic or Asian. Each group can be subject to various types of discrimination because of their ethnicity.

The above-mentioned bills are also discussed in Newsletter 2018 Issue #9.

Finally, the ongoing problem which exists with the Utilization Review (UR)/Independent Medical Review (IMR) process, as covered in Newsletter 2018 Issue #10 – “The Dream That Became a Nightmare” – definitely needs to be revisited and corrected.



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