

Introduced by Senator Soto

February 21, 2002

An act to amend Sections 31720.7 of, and to add Section 53222.1 to, the Government Code, and to amend Section 3212.8 of the Labor Code, relating to health care workers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1609, as introduced, Soto. Health care workers: blood-borne infectious disease.

The County Employees Retirement Law of 1937 provides that, for purposes of qualification for disability retirement benefits, the development of a blood-borne infectious disease, as defined, by specified safety members, probation officers, firefighters, and members in active law enforcement shall be presumed, as specified, to arise out of, and in the course of, employment.

This bill would make that presumption applicable to health care workers, as defined, and any other county employee who could be reasonably anticipated to come in contact with blood and other potentially infectious materials. The bill would also authorize the County of San Luis Obispo and the City and County of San Francisco to provide disability retirement benefits, as specified, to health care workers, as defined, and other employees of that county or city and county, as specified.

Under existing law, a person injured in the course of employment is generally entitled to receive workers' compensation on account of that injury. Existing law provides that, in the case of certain state and local firefighting and law enforcement personnel, the term "injury" includes a blood-borne infectious disease, as defined, that develops or manifests

itself during a period while in the service of the governmental entity, and establishes a disputable presumption in this regard.

This bill would make that definition of “injury” and that disputable presumption applicable to health care workers, as defined, and other county employees, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31720.7 of the Government Code is
2 amended to read:

3 31720.7. (a) If a safety member, a firefighter, a county
4 probation officer, ~~or~~ a member in active law enforcement, *or a*
5 *health care worker or any other county employee who could be*
6 *reasonably anticipated, as the result of performing his or her job*
7 *duties, to face contact with blood and other potentially infectious*
8 *materials*, who has completed five years or more of service under
9 a pension system established pursuant to Chapter 4 (commencing
10 with Section 31900) or under a pension system established
11 pursuant to Chapter 5 (commencing with Section 32200), or both,
12 or under this retirement system, under the Public Employees’
13 Retirement System, or under a retirement system established
14 under this chapter in another county, develops a blood-borne
15 infectious disease, the disease so developing or manifesting itself
16 in those cases shall be presumed to arise out of, and in the course
17 of, employment. The disease so developing or manifesting itself
18 in those cases shall in no case be attributed to any disease existing
19 prior to that development or manifestation.

20 (b) Any safety member, firefighter, county probation officer, ~~or~~
21 member active in law enforcement, *health care worker, or other*
22 *county employee* described in subdivision (a) *who is* permanently
23 incapacitated for the performance of duty as a result of a
24 blood-borne infectious disease shall receive a service-connected
25 disability retirement.

26 (c) The presumption described in subdivision (a) is rebuttable
27 by other evidence. Unless so rebutted, the board is bound to find
28 in accordance with the presumption. This presumption shall be
29 extended to a member following termination of service for a
30 period of three calendar months for each full year of the requisite



1 service, but not to exceed 60 months in any circumstance,
2 commencing with the last date actually worked in the specified
3 capacity.

4 (d) “Blood-borne infectious disease,” for purposes of this
5 section, means a disease caused by exposure to pathogenic
6 microorganisms that are present in human blood that can cause
7 disease in humans, including, but not limited to, those pathogenic
8 microorganisms defined as blood-borne pathogens by the
9 Department of Industrial Relations.

10 (e) “Member in active law enforcement,” for purposes of this
11 section, means members employed by a sheriff’s office, by a police
12 or fire department of a city, county, city and county, district, or by
13 another public or municipal corporation or political subdivision or
14 who are described in Chapter 4.5 (commencing with Section 830)
15 of Title 3 of Part 2 of the Penal Code or who are employed by any
16 county forestry or firefighting department or unit, except any of
17 those members whose principal duties are clerical or otherwise do
18 not clearly fall within the scope of active law enforcement services
19 or active firefighting services, such as stenographers, telephone
20 operators, and other office workers, and includes a member
21 engaged in active law enforcement who is not classified as a safety
22 member.

23 (f) *As used in this section, “health care worker” means any*
24 *employee of a county or district who, in the course of his or her*
25 *employment, is exposed to human blood or other bodily fluids*
26 *contaminated with blood, including, but not limited to, a registered*
27 *nurse, licensed vocational nurse, certified nurse aid, clinical*
28 *laboratory technologist, dental hygienist, physician, janitor, or*
29 *sanitary, sanitation, or housekeeping worker.*

30 SEC. 2. Section 53222.1 is added to the Government Code, to
31 read:

32 53222.1. (a) A health care worker employed by the County
33 of San Luis Obispo or by the City and County of San Francisco or
34 any other person employed by that county or city and county who
35 could be reasonably anticipated, as the result of performing his or
36 her job duties, to face contact with blood and other potentially
37 infectious materials shall, upon adoption of a resolution of the
38 board of supervisors so declaring, be entitled to the disability
39 retirement benefits provided for safety employees of the county or



1 city and county, if he or she otherwise meets the eligibility criteria
2 for those benefits.

3 (b) “Health care worker,” for purposes of this section, means
4 any employee of the county or city and county who, in the course
5 of his or her employment, is exposed to human blood or other
6 bodily fluids contaminated with blood, including, but not limited
7 to, a registered nurse, licensed vocational nurse, certified nurse
8 aid, clinical laboratory technologist, dental hygienist, physician,
9 janitor, or sanitary, sanitation, or housekeeping worker.

10 SEC. 3. Section 3212.8 of the Labor Code is amended to read:

11 3212.8. (a) In the case of members of a sheriff’s office, of
12 police or fire departments of cities, counties, cities and counties,
13 districts, or other public or municipal corporations or political
14 subdivisions, or individuals described in Chapter 4.5
15 (commencing with Section 830) of Title 3 of Part 2 of the Penal
16 Code, whether those persons are volunteer, partly paid, or fully
17 paid, and in the case of active firefighting members of the
18 Department of Forestry and Fire Protection, or of any county
19 forestry or firefighting department or unit, whether voluntary,
20 fully paid, or partly paid, excepting those whose principal duties
21 are clerical or otherwise do not clearly fall within the scope of
22 active law enforcement service or active firefighting services, such
23 as stenographers, telephone operators, and other office workers,
24 *and in the case of health care workers or any other county*
25 *employee who could be reasonably anticipated, as the result of*
26 *performing his or her job duties, to face contact with blood and*
27 *other potentially infectious materials, the term “injury” as used*
28 *in this division, includes a blood-borne infectious disease when*
29 *any part of the blood-borne infectious disease develops or*
30 *manifests itself during a period while that person is in the service*
31 *of that office, staff, division, department, or unit. The*
32 *compensation that is awarded for a blood-borne infectious disease*
33 *shall include, but not be limited to, full hospital, surgical, medical*
34 *treatment, disability indemnity, and death benefits, as provided by*
35 *the workers’ compensation laws of this state.*

36 (b) The blood-borne infectious disease so developing or
37 manifesting itself in those cases shall be presumed to arise out of
38 and in the course of the employment or service. This presumption
39 is disputable and may be controverted by other evidence, but
40 unless so controverted, the appeals board is bound to find in



1 accordance with it. That presumption shall be extended to a person
2 covered by subdivision (a) following termination of service for a
3 period of three calendar months for each full year of service, but
4 not to exceed 60 months in any circumstance, commencing with
5 the last date actually worked in the specified capacity.

6 (c) The blood-borne infectious disease so developing or
7 manifesting itself in those cases shall in no case be attributed to any
8 disease existing prior to that development or manifestation.

9 (d) For the purposes of this section, “blood-borne infectious
10 disease” means a disease caused by exposure to pathogenic
11 microorganisms that are present in human blood that can cause
12 disease in humans, including those pathogenic microorganisms
13 defined as blood-borne pathogens by the Department of Industrial
14 Relations.

15 (e) *As used in this section, “health care worker” means any*
16 *employee of a city, county, city and county, or district who, in the*
17 *course of his or her employment, is exposed to human blood or*
18 *other bodily fluids contaminated with blood, including, but not*
19 *limited to, a registered nurse, licensed vocational nurse, certified*
20 *nurse aid, clinical laboratory technologist, dental hygienist,*
21 *physician, janitor, or sanitary, sanitation, or housekeeping worker.*

