

Assembly Bill No. 2158

Passed the Assembly August 28, 2008

Chief Clerk of the Assembly

Passed the Senate August 20, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Part 9 (commencing with Section 22980) to Division 5 of Title 2 of the Government Code, relating to state employees' health benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 2158, Soto. State employees' health benefits: bloodborne diseases.

Existing law provides various health benefits for state employees and annuitants. Existing law holds the state liable for payment of workers' compensation, including medical treatment, for injuries incurred by state employees that arise out of or in the course of employment.

This bill would provide, on and after July 1, 2009, that if a correctional officer who was injured as a result of an incident at a state prison and who retired from state employment and sustained an injury as the result of a work-related event that arose out of and in the course of his or her official duties as a correctional officer at a state prison, before January 1, 1984, and that meets a specified definition of a bloodborne infectious disease, and a dependent, as defined, or former dependent, as defined, of that person contracts the bloodborne disease, which was diagnosed on or after January 1, 1990, from that person, the dependent or former dependent may receive health care benefits sufficient to cover all medically necessary health care costs associated with the disease, for the duration of the disease. The bill would require the state to contribute the cost of providing that benefit coverage from the General Fund, upon appropriation by the Legislature. The bill would also provide that a person who elects to receive these benefits would be prohibited from bringing a civil action against the state for damages related to contracting the disease. The bill would also specify that a dependent or former dependent who does not elect to receive these benefits may pursue all civil remedies allowed by law and is not subject to a defense that the claim is barred by these provisions. The bill would require the Board of Directors of the State Compensation Insurance Fund to administer this benefit.

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

SECTION 1. Part 9 (commencing with Section 22980) is added to Division 5 of Title 2 of the Government Code, to read:

PART 9. HEALTH BENEFITS FOR DEPENDENTS OF STATE EMPLOYEES

22980. (a) If a correctional officer who was injured as a result of an incident at a state prison and subsequently retired from state employment and sustained an injury as the result of a work-related event that arose out of and in the course of his or her official duties as a correctional officer at a state prison, before January 1, 1984, and that meets the definition of a bloodborne infectious disease contained in Section 3212.8 of the Labor Code, and a dependent or former dependent of that person contracts the bloodborne infectious disease from that correctional officer, the dependent or former dependent may elect to receive health care benefits sufficient to cover all medically necessary health care costs associated with the disease, for the duration of the disease. The state shall contribute the cost of providing that benefit coverage from the General Fund, upon appropriation by the Legislature. The dependent's or former dependent's health care coverage shall cease if that person is subsequently employed by an agency that provides health care coverage under the Public Employees' Retirement System.

(b) If the dependent or former dependent elects to receive benefits pursuant to this section that do not already exist, his or her election shall constitute the sole and exclusive remedy of the dependent or former dependent against the employer of the employee or former employer of the annuitant and the dependent or former dependent may not bring a civil action against the state.

(c) If the dependent or former dependent does not elect to receive benefits pursuant to this section, as specified in subdivision (a), the dependent or former dependent shall retain the right to pursue all civil remedies otherwise allowed by law, and shall not be subject to a defense that the dependent's or former dependent's claim is barred by this section.

(d) For purposes of this section, "former dependent" means a person who was diagnosed with a bloodborne infectious disease,

on or after January 1, 1990, which was contracted from a correctional officer who comes within the description of subdivision (a) and is covered under Section 3212.8 of the Labor Code while a dependent of that person, but the dependency relationship has terminated.

(e) For purposes of this section, “dependent” has the meaning provided by Section 17056 of the Revenue and Taxation Code.

(f) It is the intent of the Legislature that this section apply retroactively.

(g) The Board of Directors of the State Compensation Insurance Fund shall administer this benefit.

(h) This section shall become operative on July 1, 2009.

Approved _____, 2008

Governor