

Assembly Bill No. 2754

Passed the Assembly May 28, 2008

Chief Clerk of the Assembly

Passed the Senate August 13, 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 amend Section 31720.7 of the Government Code, and to amend Section 3212.8 of the Labor Code, relating to public safety personnel.

LEGISLATIVE COUNSEL’S DIGEST

AB 2754, Bass. Public safety personnel: MRSA skin infections.

Existing law establishes a presumption that if certain safety members, firefighters, county probation officers, or members in active law enforcement who have completed 5 years of service under specified pension or retirement systems develop a blood-borne infectious disease, the disease arises out of, and in the course of, employment. Existing law extends this presumption to blood-borne infectious diseases that occur within 3 calendar months after termination for each year of service, up to 60 months. Existing law requires those who are permanently incapacitated for the performance of duty as a result of a blood-borne infectious disease to receive a service-connected disability retirement.

This bill would expand the scope of this provision to include any methicillin-resistant *Staphylococcus aureus* (MRSA) skin infection. The bill would make the MRSA presumption applicable for up to 90 days after termination of service, and would also make the presumption applicable to any of the above safety members, regardless of service under the pension or retirement systems.

Existing law provides that an injury of an employee arising out of, and in the course of, employment is generally compensable through the workers’ compensation system. Existing law provides that, in the case of certain state and local firefighting and law enforcement personnel, the term “injury” includes, among other conditions, any blood-borne infectious disease that develops or manifests itself during a period while the member is in the service of the governmental entity, and establishes a disputable presumption in this regard. Under existing law, the disputable presumption extends after termination of service for 3 months for each calendar year worked, up to 60 months.

This bill would expand the scope of this provision to include any methicillin-resistant *Staphylococcus aureus* skin infection and

would make that presumption applicable for up to 90 days after termination of service.

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

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

31720.7. (a) If a safety member, a firefighter, a county probation officer, or a member in active law enforcement develops a blood-borne infectious disease or a methicillin-resistant *Staphylococcus aureus* skin infection, the disease or skin infection so developing or manifesting itself in those cases shall be presumed to arise out of, and in the course of, employment. The blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection so developing or manifesting itself in those cases shall in no case be attributed to any disease or skin infection existing prior to that development or manifestation.

(b) Any safety member, firefighter, county probation officer, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of a blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection shall receive a service-connected disability retirement.

(c) (1) The presumption described in subdivision (a) is rebuttable by other evidence. Unless so rebutted, the board is bound to find in accordance with the presumption.

(2) The blood-borne infectious disease presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(3) Notwithstanding paragraph (2), the methicillin-resistant *Staphylococcus aureus* skin infection presumption shall be extended to a member following termination of service for a period of 90 days commencing with the last day actually worked in the specified capacity.

(d) “Blood-borne infectious disease,” for purposes of this section, means a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including, but not limited to, those pathogenic

microorganisms defined as blood-borne pathogens by the Department of Industrial Relations.

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

SEC. 2. Section 3212.8 of the Labor Code is amended to read:

3212.8. (a) In the case of members of a sheriff’s office, of police or fire departments of cities, counties, cities and counties, districts, or other public or municipal corporations or political subdivisions, or individuals described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whether those persons are volunteer, partly paid, or fully paid, and in the case of active firefighting members of the Department of Forestry and Fire Protection, or of any county forestry or firefighting department or unit, whether voluntary, fully paid, or partly paid, excepting those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service or active firefighting services, such as stenographers, telephone operators, and other office workers, the term “injury” as used in this division, includes a blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection when any part of the blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection develops or manifests itself during a period while that person is in the service of that office, staff, division, department, or unit. The compensation that is awarded for a blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection shall include, but not be limited to, full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by the workers’ compensation laws of this state.

(b) (1) The blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection so developing or manifesting itself in those cases shall be presumed to arise out of and in the course of the employment or service. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it.

(2) The blood-borne infectious disease presumption shall be extended to a person covered by subdivision (a) following termination of service for a period of three calendar months for each full year of service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(3) Notwithstanding paragraph (2), the methicillin-resistant *Staphylococcus aureus* skin infection presumption shall be extended to a person covered by subdivision (a) following termination of service for a period of 90 days, commencing with the last day actually worked in the specified capacity.

(c) The blood-borne infectious disease or methicillin-resistant *Staphylococcus aureus* skin infection so developing or manifesting itself in those cases shall in no case be attributed to any disease or skin infection existing prior to that development or manifestation.

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

Approved _____, 2008

Governor