



House of Representatives

General Assembly

File No. 59

February Session, 2012

Substitute House Bill No. 5233

House of Representatives, March 21, 2012

The Committee on Labor and Public Employees reported through REP. ZALASKI of the 81st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING WORKERS' COMPENSATION FOR FIREFIGHTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (16) of section 31-275 of the 2012 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective from passage and applicable to any claim filed after*
4 *said date*):

5 (16) (A) "Personal injury" or "injury" includes, in addition to
6 accidental injury that may be definitely located as to the time when
7 and the place where the accident occurred, an injury to an employee
8 that is causally connected with the employee's employment and is the
9 direct result of repetitive trauma or repetitive acts incident to such
10 employment, and occupational disease.

11 (B) "Personal injury" or "injury" shall not be construed to include:

12 (i) An injury to an employee that results from the employee's

13 voluntary participation in any activity the major purpose of which is
14 social or recreational, including, but not limited to, athletic events,
15 parties and picnics, whether or not the employer pays some or all of
16 the cost of such activity;

17 (ii) A mental or emotional impairment, unless such impairment (I)
18 arises [(I)] from a physical injury or occupational disease, [or] (II) in the
19 case of a police officer, arises from such police officer's use of deadly
20 force or subjection to deadly force in the line of duty, regardless of
21 whether such police officer is physically injured, provided such police
22 officer is the subject of an attempt by another person to cause such
23 police officer serious physical injury or death through the use of
24 deadly force, and such police officer reasonably believes such police
25 officer to be the subject of such an attempt, or (III) in the case of a
26 firefighter, is diagnosed as post-traumatic stress disorder by a licensed
27 and board certified mental health professional, determined by such
28 professional to be originating from the firefighter witnessing the death
29 of another firefighter while engaged in the line of duty and not subject
30 to any other exclusion in this section. As used in this clause, "police
31 officer" means a member of the Division of State Police within the
32 Department of Emergency Services and Public Protection, an
33 organized local police department or a municipal constabulary,
34 "firefighter" means a uniformed member of a municipal paid or
35 volunteer fire department, and "in the line of duty" means any action
36 that a police officer or firefighter is obligated or authorized by law,
37 rule, regulation or written condition of employment service to
38 perform, or for which the police officer or firefighter is compensated
39 by the public entity such officer serves;

40 (iii) A mental or emotional impairment that results from a personnel
41 action, including, but not limited to, a transfer, promotion, demotion
42 or termination; or

43 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
44 subdivision, "personal injury" or "injury" includes injuries to
45 employees of local or regional boards of education resulting from

46 participation in a school-sponsored activity but does not include any
 47 injury incurred while going to or from such activity. As used in this
 48 clause, "school-sponsored activity" means any activity sponsored,
 49 recognized or authorized by a board of education and includes
 50 activities conducted on or off school property and "participation"
 51 means acting as a chaperone, advisor, supervisor or instructor at the
 52 request of an administrator with supervisory authority over the
 53 employee.

54 Sec. 2. Section 31-294h of the general statutes is repealed and the
 55 following is substituted in lieu thereof (*Effective from passage and*
 56 *applicable to any claim filed after said date*):

57 Notwithstanding any provision of this chapter, workers'
 58 compensation benefits for any (1) police officer, as defined in
 59 subparagraph (B)(ii) of subdivision (16) of section 31-275, as amended
 60 by this act, who suffers a mental or emotional impairment arising from
 61 such police officer's use of deadly force or subjection to deadly force in
 62 the line of duty, or (2) firefighter, as defined in subparagraph (B)(ii) of
 63 subdivision (16) of section 31-275, as amended by this act, who suffers
 64 a mental or emotional impairment diagnosed as post-traumatic stress
 65 disorder originating from the firefighter witnessing the death of
 66 another firefighter while engaged in the line of duty, shall be limited to
 67 treatment by a psychologist or a psychiatrist who is on the approved
 68 list of practicing physicians established by the chairman of the
 69 Workers' Compensation Commission pursuant to section 31-280.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to any claim filed after said date</i>	31-275(16)
Sec. 2	<i>from passage and applicable to any claim filed after said date</i>	31-294h

Statement of Legislative Commissioners:

In section 1(16)(B)(ii), deleted "and" for proper use of language and to conform with the style of the general statutes, and deleted the word "paid" before "municipal" and inserted the word "paid" after "municipal" to conform with the style of the general statutes and for proper use of language.

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
All Municipalities	STATE MANDATE - Cost	Potential	Potential

Explanation

The bill may have a potential fiscal impact on municipalities as it makes certain municipal firefighters eligible for workers' compensation coverage for mental or emotional impairment.

It is not known how many mental or emotional impairment claims are filed in a given year by municipal firefighters. The average workers' compensation medical liability for a single emotional impairment claim can be as high as \$10,500¹. There are approximately 22,225 volunteer and 4,400 career firefighters in the State of Connecticut².

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of approved claims filed.

¹ Based on the average state employee workers' compensation claim of 35 office visits, which can range from \$150-\$300 per visit.

² Data as of 2011.

OLR Bill Analysis**sHB 5233*****AN ACT CONCERNING WORKERS' COMPENSATION FOR FIREFIGHTERS.*****SUMMARY:**

This bill extends workers' compensation coverage for mental or emotional impairment to a volunteer or paid uniformed municipal firefighter diagnosed with post-traumatic stress disorder (PTSD) that originates from the firefighter witnessing the death of another firefighter while engaged in the line of duty. To be eligible, the firefighter (1) must be diagnosed by a licensed and board certified mental health professional who determines the PTSD stems from witnessing the death of another firefighter and (2) is not subject to any other exclusion under workers' compensation law.

The workers' compensation benefits under the bill are limited to treatment from a practicing psychologist or psychiatrist on an approved list established by the Workers' Compensation Commission chairperson. This differs from full workers' compensation coverage in that it does not provide wage replacement benefits.

Under current law, there are only two scenarios where a mental or emotional injury is covered by workers' compensation.

EFFECTIVE DATE: Upon passage and applicable to any claim filed on or after that date.

BACKGROUND***Mental and Emotional Injuries***

By law, for most employees a mental or emotional injury is compensable under workers' compensation only if it arises out of a physical injury that occurs on the job or is job-related. In these cases,

the workers' compensation claim starts with the physical injury and the employee is eligible for wage replacement and medical benefits.

By law, a police officer's mental and emotional injury that arises from a job-related incident in which the officer was subject to the attempted use of deadly force or the officer used deadly force on another person is covered under worker's compensation, but the benefit is limited to treatment by an approved psychologist or psychiatrist.

Volunteer Firefighters and Workers' Compensation

By law, a volunteer firefighter injured while performing firefighting duties is eligible for workers' compensation benefits from the town for which the firefighting services are rendered (CGS §§ 7-314a & 7-314b).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 1 (03/06/2012)