



Senate

General Assembly

File No. 293

January Session, 2015

Substitute Senate Bill No. 593

Senate, March 30, 2015

The Committee on Labor and Public Employees reported through SEN. GOMES of the 23rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING SEVERE MENTAL AND EMOTIONAL
IMPAIRMENT AND WORKERS' COMPENSATION COVERAGE.***

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 general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

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

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

11 (i) An injury to an employee that results from the employee's
12 voluntary participation in any activity the major purpose of which is

13 social or recreational, including, but not limited to, athletic events,
14 parties and picnics, whether or not the employer pays some or all of
15 the cost of such activity;

16 (ii) A mental or emotional impairment, unless such impairment (I)
17 arises from a physical injury or occupational disease, (II) in the case of
18 a police officer, arises from such police officer's use of deadly force or
19 subjection to deadly force in the line of duty, regardless of whether
20 such police officer is physically injured, provided such police officer is
21 the subject of an attempt by another person to cause such police officer
22 serious physical injury or death through the use of deadly force, and
23 such police officer reasonably believes such police officer to be the
24 subject of such an attempt, [or] (III) in the case of a firefighter, is
25 diagnosed as post-traumatic stress disorder by a licensed and board
26 certified mental health professional, determined by such professional
27 to be originating from the firefighter witnessing the death of another
28 firefighter while engaged in the line of duty and not subject to any
29 other exclusion in this section, or (IV) in the case of any police officer,
30 firefighter or ambulance worker, is diagnosed by a psychiatrist
31 licensed pursuant to chapter 370 or a psychologist licensed pursuant to
32 chapter 383, and determined by such psychiatrist or psychologist to be
33 originating from the police officer, firefighter or ambulance worker
34 visually witnessing the death or maiming, or visually witnessing the
35 immediate aftermath of such death or maiming, of one or more human
36 beings, whose death or maiming was caused by an act of another
37 human being, and which is not the result of some natural cause,
38 provided such death or maiming is not the result of a motor vehicle
39 collision and the visual witnessing of such death or maiming, or the
40 visual witnessing of the aftermath of such death or maiming, was
41 causally connected with the police officer's, firefighter's or ambulance
42 worker's employment. As used in this clause, "police officer" means a
43 member of the Division of State Police within the Department of
44 Emergency Services and Public Protection, an organized local police
45 department or a municipal constabulary, "firefighter" means a
46 uniformed member of a municipal paid or volunteer fire department,
47 [and] "in the line of duty" means any action that a police officer or

48 firefighter is obligated or authorized by law, rule, regulation or written
 49 condition of employment service to perform, or for which the police
 50 officer or firefighter is compensated by the public entity such officer
 51 serves, "maiming" means the loss of any member or organ, and
 52 "immediate aftermath" means the scene at which such death or
 53 maiming occurred for a period of time not to exceed six hours after
 54 such scene is secured by law enforcement officers;

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

58 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
 59 subdivision, "personal injury" or "injury" includes injuries to
 60 employees of local or regional boards of education resulting from
 61 participation in a school-sponsored activity but does not include any
 62 injury incurred while going to or from such activity. As used in this
 63 clause, "school-sponsored activity" means any activity sponsored,
 64 recognized or authorized by a board of education and includes
 65 activities conducted on or off school property and "participation"
 66 means acting as a chaperone, advisor, supervisor or instructor at the
 67 request of an administrator with supervisory authority over the
 68 employee.

69 Sec. 2. (NEW) (*Effective from passage*) Not later than October 1, 2015,
 70 the state shall purchase a workers' compensation insurance policy to
 71 provide coverage for any claims for workers' compensation benefits
 72 made pursuant to subparagraph (B)(ii)(IV) of subdivision (16) of
 73 section 31-275 of the general statutes, as amended by this act.

74 Sec. 3. Section 31-294h of the general statutes is repealed. (*Effective*
 75 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-275(16)

Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	Repealer section

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:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Various State Agencies	GF, TF - Cost	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
All Municipalities	STATE MANDATE - Cost	See Below	None

Explanation

Sections 1 and 2 of the bill will result in a cost to the state’s workers’ compensation program to purchase a workers’ compensation policy to provide coverage for any claims arising out of the bill’s expanded definition of personal injury to include mental-mental injuries (a mental injury without an accompanying physical injury) as of October 1, 2015.¹ The amount of the policy will depend on various factors, including (1) the anticipated frequency of claims and (2) the anticipated severity of the claims, which are both unknown and highly variable. The average cost per case of a mental - mental injury resulting in absence from work can range from \$20,000 to \$150,000.² By way of example, a basic claim for the state with lost wage (TTD), permanent partial disability (PPD) and cost of medical services is

¹ The balance of the state’s workers’ compensation program is assumed to remain self-insured and therefore responsible for the total cost of claims incurred.

² Source: NCCI (National Council on Compensation Insurance). These figures are based on data reported from fully insured entities.

estimated to be approximately \$88,000 over the life of the claim.³ For reference each 1% increase in state workers' compensation costs is approximately \$1.1 million.

Lastly, it is important to note that once an injury is identified as a work related injury and covered under the workers' compensation program any subsequent injury or impairment which can be causally linked to the initial injury is also covered by workers' compensation, resulting in a wide range of potential per claim costs.

The bill's coverage applies to police officers, firefighters (including volunteer firefighters) and ambulance workers ("emergency responders"). There are approximately 26,650 firefighters, 20,561 emergency responders, 7,279 police officers, and 1,116 sworn state police officers (total population is approximately 55,606 people).⁴

Municipal Impact

The bill will result in a cost to municipalities to provide coverage for workers' compensation claims made in accordance with the provisions of the bill for the period between when the bill is enacted and October 1, 2015 when the state policy would be effective.

It is not known how many mental-mental claims are filed in a given year by municipal police officers or firefighters under the current law. The cost will depend on the amount of the policy if one can be purchased or the cost of the resulting claims.

³ The estimate is based on (1) first year temporary total disability (TTD) cost of \$21,000 (\$13,000 in lost wages and \$8,000 medical (\$100-\$300 per visit for approximately 2 visits per week)), (2) additional permanent partial disability (PPD) benefit of \$52,000, and (3) \$15,000 in future medical costs. The estimate assumes the average first responder weekly indemnity benefit is approximately \$1,000 and maximum medical improvement of 10%. Medical costs refer only to mental health related out-patient services and exclude any other medical care related to the claim. This assumes the individual is classified as having a PPD. A TTD has no cap on treatment or duration.

⁴ The number of fire fighters and emergency responders may be overstated as an individual may be a fire fighter and an EMT. Member statistics based on information from the Connecticut State Firefighters Association for 2014. The number of emergency responders as reported by the CT Dept. of Public Health.

Section 3 of the bill is not anticipated to result in a fiscal impact to the state or municipalities.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future and reflected in future premiums.

OLR Bill Analysis**sSB 593*****AN ACT CONCERNING SEVERE MENTAL AND EMOTIONAL IMPAIRMENT AND WORKERS' COMPENSATION COVERAGE.*****SUMMARY:**

This bill makes police officers, firefighters, and ambulance workers ("emergency responders") eligible for workers' compensation benefits if they meet the following conditions:

1. during the course of their duties, they saw (a) a person's death or maiming or (b) the scene of the death or maiming within six hours after law enforcement officers secure it ("immediate aftermath");
2. the death or maiming was caused by another person and not a natural cause or a motor vehicle collision; and
3. a licensed psychiatrist or psychologist diagnoses the emergency responder with a mental or emotional impairment and determines that it originated from seeing the death or maiming or its immediate aftermath.

Under the bill, "maiming" is the loss of any body part or organ.

The bill requires the state, by October 1, 2015, to purchase a workers' compensation insurance policy to provide coverage for any claims for workers' compensation benefits for the above injuries. (In practice, the state self-insures its workers' compensation coverage for state employees.) Because the state does not have to purchase the policy until October 2015, municipal employers must cover their own emergency responders' workers' compensation claims, as is the practice under current law, between the time the bill is enacted and the

state purchases the required policy.

The bill also extends full workers' compensation benefits to (1) police officers who suffer a mental or emotional impairment caused by using, or being subjected to, deadly force in the line of duty and (2) firefighters diagnosed with post-traumatic stress disorder caused by witnessing the death of another firefighter in the line of duty. Current law limits workers' compensation benefits in these instances to treatment by an approved psychologist or psychiatrist and does not include wage replacement benefits.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 1 (03/12/2015)