Workers’ Compensation Legislation Affecting Public Employers Continues to Move through the Capitol

Will Governor Newsom be More Accommodating than Governor Brown?

June 14, 2019

In the 2019 Legislative Session, the Legislature has introduced a series of measures in the workers’ compensation space that will drive up employer cost and expand the system to pre-2012 reform levels.

The predominant area we have seen this year surrounds the proposed expansions of presumptions within the workers’ compensation system — backed by the California Professional Firefighters (CPF), the Peace Officers Research Association of California (PORAC) and/or the American Federation of State, County and Municipal Employees (AFCME). While the League continues to work with the authors and sponsors to pursue amendments and alternative solutions, Capitol reality is that the Legislature will likely pass these measures, leaving the tough decisions to Gov. Gavin Newsom.

Presumptions Are Cost Drivers

California workers’ compensation law provides for several presumptions, which apply specifically for safety and law enforcement positions. In workers’ compensation law, an injured worker generally has the burden of proof. The injured worker’s burden is to prove that the injury was caused by “reasonable medical probability.” This burden essentially means “more likely than not.”

The presumptions afforded to safety and law enforcement officers allow them to gain an evidentiary advantage in proving industrial causation. One of the biggest challenges for employers for presumptions is that it takes cost-containment measures off of the table such as the ability to use apportionment in assessing the causation of the injury — especially when the use of ‘4850’ time (one year at full salary, tax free) is accounted for.

Additionally, expanding the classification of employees eligible for presumptions becomes incredibly challenging for employers to try and stabilize costs, ensure appropriate staffing and provide adequate services to the public. There is also a concern that this will lead to an increase in the prevalence of Industrial Disability Retirement (IDR’s) which are costly for public agencies.

Current Workers Compensation Expansion Bills Affecting Public Employers

Below are four measures that prove to be most problematic in the 2019 Legislative Session for public employers, ranked in order of greatest fiscal impact:
1. **AB 932 (Low) Off-Duty Firefighters: Out-of-State.** Expands the scope of workers’ compensation to apply when a firefighter engages in a fire-suppression, rescue operation, the protection or preservation of life or property, outside of this state. Sponsor: CPF.

2. **AB 1400 (Kamlager-Dove) Firefighting Operations. Civilian Employees.** Provides all presumptions within the workers compensation system currently authorized for active duty firefighters to “all fire service personnel.” This will apply broadly to all non-sworn fire personnel. Sponsor: AFCME.


4. **SB 416 (Hueso) Expansion to All Peace Officers.** Expands all presumptions in the workers’ compensation system currently approved for firefighters, sheriffs, police officers, California Highway Patrol officers, and arson investigation units to all employees designated as peace officers as defined in Chapter 4.5 of Title 3 of Part 2 of the Penal Code, except for those peace officers described in subdivision (b) of Section 830.1, subdivision (b) or (d) of Section 830.2, or Section 830.39, 830.4, or 830.5 of the Penal Code. Sponsor: PORAC.

**Governor Newsom vs. Governor Brown**

In 2012, Gov. Jerry Brown spearheaded one of the largest workers’ compensation reform packages in recent memory. His action sent an incredibly strong message to the Legislature, the public and interest groups such as the attorneys and organized labor that he was unwilling to sign measures that would drive up employer cost without sufficient data to justify the expansion. We saw this in practice time and time again when Governor Brown consistently vetoed measures that sought to take away apportionment. As such, Governor Brown became a critical backstop for curbing costs in the workers’ compensation system.

Governor Newsom, to date, has not indicated where he will land on proposed workers’ compensation expansions. As early endorsers of his gubernatorial campaign, CPF anticipates Governor Newsom will be more receptive than Governor Brown.

Despite the potential of the measures listed above to drive up costs for public employers in the workers’ compensation system, the Legislature is likely to send Governor Newsom the majority, if not all, of these pieces of legislation. The critical question remains: will Governor Newsom continue to hold the line on cost driving measures in the system, or be more accommodating than his predecessor?

**Recent Action and Next Steps**

The League of California Cities in conjunction with the California Coalition on Workers Compensation, California State Association of Counties, California Special Districts Association and other statewide
public and private organizations have joined together in opposing these measures. All the measures outlined above, however, have made it through their respective legislative houses. It is critical that cities work through the League to oppose these measures to increase the ability to either stop them in the Legislature or get on record so that Governor Newsom will more fully understand the potential financial impacts on public employers. As these measures continue through the legislative process, cities are encouraged to send letters of opposition to their legislator and a copy to cityletters@cacities.org. The full text of the measures can be found at www.cacities.org/billsearch by plugging the bill number into the search function.
Upcoming Bills in Committee, June 17 – July 3

June 14, 2019

Legislative policy committees are still moving along, with several of the League’s HOT bills up in committees this week, including SB 330 (Skinner), Housing Crisis Act of 2019, being heard in the Assembly Housing and Community Development Committee.

The Legislature will adjourn July 12 for its summer recess, returning on Aug. 12. The League will continue monitoring several bills affecting cities.

Some hearings, if not all, will be televised. The Senate and Assembly publish weekly television schedules, but audio is always available online. In addition, many hearings are also webcast via the California Channel.

Here are a number of upcoming hearings of interest to cities:

June 17

Assembly Revenue and Taxation, 2:30 p.m., State Capitol, Room 126

June 18

Senate Public Safety, 8:30 a.m., State Capitol. Room 4203
- AB 164 (Cervantes) Firearms: prohibited persons. League position: pending support.

Assembly Judiciary, 9 a.m., State Capitol. Room 437

Senate Energy, Utilities and Communications, 9 a.m., State Capitol. Room 3191
- AB 497 (Santiago) Deaf and Disabled Telecommunications Program. League position: support.

Senate Elections and Constitutional Amendments, 9:30 a.m., State Capitol, Room 112
- HOT AB 849 (Bonta) Elections: city and county redistricting. League position: oppose.
Assembly Environmental Safety and Toxic Materials, 1:30 p.m., State Capitol, Room 444

Senate Housing, 1:30 p.m., State Capitol, Room 4203
- AB 68 (Ting) Land use: accessory dwelling units. League position: oppose unless amended.
- AB 881 (Bloom) Accessory dwelling units. League position: oppose unless amended.

Senate Judiciary, 1:30 p.m., State Capitol, Room 112

June 19

Assembly Housing and Community Development, 9:15 a.m., State Capitol, Room 126
- SB 13 (Wieckowski) Accessory dwelling units. League position: oppose unless amended.

Assembly Elections and Redistricting, 9:30 a.m., State Capitol, Room 444
- SB 681 (Stern) Local referenda and charter amendments: withdrawal. League position: support.

Senate Governance and Finance, 9:30 a.m., State Capitol, Room 112
- AB 1253 (Rivas) Local agency formation commissions: grant program. League position: support.

Senate Labor, Public Employment and Retirement, 9:30 a.m., State Capitol, Room 2040

Assembly Communications and Conveyance, 1:30 p.m., State Capitol, Room 437

Assembly Local Government, 1:30 p.m., State Capitol, Room 447
- SB 531 (Glazer) Local agencies: reitals. League position: support.

June 24

Assembly Natural Resources, 2:30 p.m., State Capitol, Room 447
June 25

Assembly Public Safety, 9 a.m., State Capitol, Room 126
  • SB 23 (Wiener) Unlawful entry of a vehicle. League position: support.

Senate Governmental Organization, 9:30 a.m., State Capitol, Room 4203
  • AB 41 (Gallagher) Disaster relief: Camp Fire. League position: support.

June 26

Assembly Public Employment and Retirement, 9 a.m., State Capitol, Room 444

Assembly Labor and Employment, 1:30 p.m., State Capitol, Room 447
  • SB 142 (Wiener) Employees: lactation accommodation. League position: oppose.

July 1

Assembly Transportation, 2:30 p.m., State Capitol, Room 4202
  • SB 137 (Dodd) Federal transportation funds: state exchange programs. League position: support.

July 3

Senate Environmental Quality, 9:30 a.m., State Capitol, Room 3191
  • AB 1509 (Mullin) Solid waste: lithium-ion batteries. League position: pending.
Registration Now Open for the League of California Cities 2019 Annual Conference & Expo

Early-Bird Pricing Until Aug. 14

May 31, 2019

The League of California Cities has opened registration for its 2019 Annual Conference & Expo.

The conference will take place on Oct. 16 – 18, at the Long Beach Convention Center.

The annual meeting will bring together over 1,800 California city leaders for a three-day educational and networking event aiming to provide opportunities for attendees to gain perspectives and knowledge on real issues challenging cities, plus deepen relationships and share with others in similar fields.

Registration Information

Register by Aug. 14 and receive $50 off your conference registration with the early-bird discount. The full conference registration includes access to educational sessions, Wednesday host-city reception, networking events, Thursday lunch with exhibitors, and the Friday closing luncheon. Full conference registrations start at $550 for member cities who register before Aug. 14 and will rise to $600 as of Aug. 15.

Lodging Information

There are several fantastic properties for lodging this year around the Long Beach Convention Center. Reduced room rates are available for registered attendees; please register first before receiving the links in your registration confirmation email to reserve hotel rooms. Hotel reservations are only available online.

Register early, as space is limited. If you have any questions about the event, please email education@cacities.org.

Visit https://www.cacities.org/AC for more information and view the conference announcement.
League-Sponsored Bill to Provide Sustainable, Ongoing Funding to Build Affordable Housing Passes Out of Senate

May 29, 2019

The State Senate today passed SB 5 (Beall, McGuire, Portantino), which would establish an ongoing funding mechanism that would ultimately direct up to $2 billion annually in support of local infill, transit oriented development, affordable housing and neighborhood revitalization projects.

SB 5 establishes a new state-local partnership that provides cities and counties the resources they need to subsidize affordable housing, invest in infrastructure needed to support housing, invest in housing near job centers to reduce long driving commutes and bring the state closer to its goals of reducing greenhouse gas emissions and addressing climate change.

“Cities are proud to support SB 5, because it will create a much-needed partnership between the state and locals to help us meet our affordable housing challenge,” said Carolyn Coleman, executive director of the League of California Cities. “Every day, city officials see first-hand the devastating toll that a lack of affordable housing has on our residents. Too many Californians are homeless, or one paycheck away from losing shelter. SB 5 is an important commitment toward housing those most in need.”

While the Governor and Legislature have proposed one-time funding, there is a significant need for ongoing and sustainable funding dedicated to affordable housing, community revitalization and related infrastructure. SB 5 is supported by a broad coalition of California cities, businesses, labor organizations, housing advocates and community leaders.

Next Steps

SB 5 represents a major effort by the authors — chairs of the key Senate Transportation, Governance, and Finance Committees — to restore a more viable funding option for urban revitalization and development projects going forward. As this measure continues through the legislative process and onto the Assembly, cities are encouraged to send support letters to their legislator and a copy to cityletters@cacities.org. The full text of the measure along with the League’s support letter can be found at www.cacities.org/billsearch by plugging SB 5 into the search function.

Background

Since the elimination of redevelopment, cities have been looking for a replacement funding mechanism. While the state has created several tax increment tools — including Enhanced Infrastructure Financing Districts (EIFD), Community Revitalization Investment Authorities (CRIA), Affordable Housing
Authorities (AHA) and others — all have their limitations, and are much less fiscally robust than the former tool. SB 5 fills the financing void by creating the Local-State Sustainable Investment Incentive Program.

Under SB 5, a city, county, or Joint Powers Authority that has a financial commitment to a project would apply for funding to a Sustainable Investment Incentive Committee, created by the bill. Eligible projects include:

- Housing development plans that propose construction of workforce and affordable housing, and support the construction of housing for all-income ranges consistent with adopted housing elements. Fifty percent of the funds must be used to construct workforce and affordable housing;
- Transit-oriented development in priority locations that maximize density and transit use, and contribute to the reduction of vehicle miles traveled and greenhouse gas emissions;
- Infill development by rehabilitating, maintaining and improving existing infrastructure that supports infill development and appropriate reuse and redevelopment of previously developed, underutilized land that is presently served by transit, street, water, sewer, and other essential services, particularly in underserved areas, and to preserving cultural and historic resources; and
- Promoting strong neighborhoods through supporting local community planning and engagement efforts to revitalize and restore neighborhoods, including repairing infrastructure and parks, rehabilitating and building housing, promoting public-private partnerships, supporting small businesses and job growth for affected residents.

Twelve percent of the overall funding for the program shall be set aside for counties with populations of less than 200,000.

**How SB 5 Financing Works**

Under prior redevelopment law, when a city formed a redevelopment project area, a powerful financing mechanism was created because the property tax growth above the base year from affected counties, special districts and schools — in addition to a city's — would flow to the redevelopment agency. Property tax growth from the school share of property tax, which can average half of local property taxes, was a major funding engine for redevelopment. When redevelopment agencies were eliminated in 2011, approximately $2 billion in property tax was being diverted from school to redevelopment agencies. There was no financial impact on schools, however, because the state General Fund replaced these funds annually due to is funding obligations under Proposition 98.

One of the major challenges with the new financing mechanisms attached to recent tax increment tools (EIFD, CRIA, AHA, etc.) is that none of the growth of the county or special district’s share of property tax goes to the new district without agreement by the affected entities, and access to growth off the school share is currently prohibited. This is a major limitation. While cities can approach counties and special districts with various proposals, those entities have their own priorities, which often do not include
funding urban revitalization, transit oriented development, affordable housing and other major projects within cities. Cities cannot approach school districts — and would likely never be able to absent a state approval process — given the state’s funding obligation to schools under Prop. 98. SB 5 resolves this problem, and opens up major funding options, by creating a state approval mechanism to access growth off of the school share for local projects that match state priorities.

Other Features

The Local-State Sustainable Investment Incentive Program is designed as an opt-in program and no affected taxing entities are required to participate. Schools will be made whole by the state backfill mechanism in Prop. 98. Prevailing wages and skilled and trained workforce requirements apply.

State Oversight

SB 5 would create the Sustainable Investment Incentive Committee, which will review and approve or disapprove proposed projects. The Committee is comprised of the following:

- The chair of the Strategic Growth Council;
- The chair of the California Housing Finance Agency;
- The chair of California Workforce Investment Board;
- Director of the California Housing and Community Development Department;
- Two people appointed by the Speaker of the Assembly;
- Two people appointed by the Senate Rules Committee; and
- One public member appointed by the Joint Legislative Budget Committee who has experience in education finance.

Each applicant receives financing pursuant to the program for any fiscal year is required to provide a report to the committee. The committee must also provide an annual report to the Joint Legislative Budget Committee.
League of California Cities - League-Sponsored Bill to Provide Sustainable, Ongoing Funding to Build Affordable Housing Passes Out

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Register to Attend a Hearing or Webinar

June 3, 2019

The California Department of Housing and Community Development (HCD) recently released the Draft 2019 – 20 Annual Action Plan (AP) and applicable appendices for public comment.

The League of California Cities encourages cities to submit comments on the Draft 2019 – 20 AP During the 30-day public comment period from May 28 through June 26 at 5 p.m.

This is the fifth AP update to the state's 2015 – 20 Consolidated Plan. California's Consolidated Plan is a five-year plan that examines the housing and community development needs of Californians and their communities and lays out how federal funds will be used to address these needs and improve the quality of life for Californians.

The Draft 2019 – 20 AP addresses the administration of the estimated 2019 federal funds under the:

- Community Development Block Grant (CDBG) program;
- Home Investment Partnerships (HOME) program;
- Emergency Solutions Grant (ESG) program;
- National Housing Trust Fund (NHTF) program; and
- Housing Opportunities for Persons With AIDS (HOPWA) program.

Written comments can be submitted via:

Email: caper@hcd.ca.gov
Fax: (916) 263-3394; or
Mail to the following address:

Attn: Draft 2019 – 20 Annual Action Plan
California Department of Housing and Community Development
Division of Financial Assistance
Program Design and Development Branch
2020 W. El Camino Avenue, Suite 600
Sacramento, CA 95833

2019 – 20 Annual Action Plan Public Hearing Information
El Centro
June 7
9 a.m. – 12 p.m.
Imperial County Administration Building
940 West Main Street
Conference Room C&D
Register

Sacramento
June 14
10 a.m. – 1 p.m.
California Department of Housing and Community Development
2020 West El Camino Avenue
Conference Room 402b
Register

Webinar Details

June 14
1 – 2 p.m.
Register

For more information, visit HCD’s Plans and Reports [webpage](#). If you have any questions, please email [caper@hcd.ca.gov](mailto:caper@hcd.ca.gov).
Cities Must Register by June 14 to Participate in 2020 Census New Construction Program

June 3, 2019

The 2020 Census is less than a year from now.

Cities can help achieve an accurate census count by making sure the Census Bureau’s address list is complete and accurate. Last year California participated in the Local Update of Census Addresses program (LUCA), which was the first opportunity for input to the address list. In summer 2019, LUCA participants will be able to submit supporting documentation to appeal addresses deleted or rejected by the Census Bureau.

In addition to the LUCA program, the New Construction Program scheduled for September through November 2019 gives local governments an opportunity to supplement the address list. Information from the Census Bureau indicates that only 57 cities have responded to an invitation to participate in the New Construction Program. Cities must register by June 14 to participate.

Through the New Construction Program, local governments will submit addresses for residential units under construction on or after March 1, 2018 where completion is expected by Census Day, April 1, 2020. Please visit the 2020 Census New Construction website for more information, including the program schedule and frequently asked questions.

The stakes for an accurate 2020 California census count are high. An undercount can result in the loss of federal funds, as well as congressional representation in the U.S. House of Representatives. Cities are advised to participate in the New Construction Program to make certain that new homes and the population residing in them are included in the census.

There are two ways to register:

- Register online: or
- Download the PDF version of the registration form and send the completed form to GEO.2020.NC@census.gov or mail it to the following address:

U.S. Department of Commerce
Economics and Statistics Administration
U.S. Census Bureau
1201 E 10th Street
Jeffersonville IN 47132-0001
ATTN: GEOGRAPHY NEW CONSTRUCTION BLDG 63-D
For questions regarding the New Construction Program, please contact the Census Bureau at GEO.2020.NC@census.gov or call 1 (844) 242-1765.