

Post-traumatic Stress Injury in First Responders Senate Bill 775 (PN 913)

- Provides a Workers' Compensation benefit to first responders for PTSD sustained while in the course and scope of employment as a first responder.
- Claims are established by a preponderance of the evidence that the injury resulted from normal or abnormal working conditions sustained during the course and scope of employment.
- Claims must be filed within three years of PTSD diagnosis by a PA licensed psychologist or psychiatrist.
- Claims made against an employer after the last date of employment are not precluded if the direct exposure occurred while employed.
- First responders are defined in the bill as career and volunteer firefighters, volunteer emergency services personnel, volunteer ambulance, rescue and lifesaving personnel, PA State Police and peace officers (includes municipal police).

The League opposes SB 775 in its current form. We are seeking a compromise that will acknowledge and provide a benefit for first responders that is fair and sustainable for the employer, minimizes specious claims and reduces the likelihood of legal challenges.

Request that your Senator work with the League and its local government colleagues to find a fiscally responsible solution.

Talking Points

- This legislation was introduced last session in the House. This session it has been introduced in both chambers.
- The Senate is taking the lead this time with SB 775 introduced by Senator Bartolotta.
- The sentiment is that this bill is going to move and there is support from both sides of the aisle. Local government is willing to discuss and work toward a fair compromise. If not possible, we will oppose.
- Treatment for PTSD is currently available through a first responder's medical insurance.
- Work-related PTSD claims are also compensable under the PA Workers' Compensation Act and are considered mental/mental claims – a mental condition caused by psychological trauma causing a mental impairment.
- Because mental/mental injuries are inherently more subjective than physical injuries, case law in PA has set a higher standard by requiring claimants to demonstrate the injury arose from an objective "abnormal working condition."
- Recent court decisions have acknowledged that even in the stressful occupations of first responders, abnormal working conditions do exist, thereby lessening the high-bar of proof once faced by first responders.

- Other states have barred claimants from seeking relief for PTSI under their Workers' Compensation systems. This has made PTSI legislation a top priority of the first responder lobby across the nation.
- Even with PA's current compensation for claims, SB 775 is more broad (less fiscally responsible) than legislation enacted in other states.
- Provisions that narrow the PA legislation, and thereby protect employers from potential runaway costs, is absolutely necessary.
- An actuarial cost analysis for SB 775 places the average cost at \$240,000 per claim.
- Taxpayers will bear the cost of these claims, therefore every attempt should be made to ensure the legislation is narrowly tailored.
- Based on legislation in other states, some of our suggested provisions for tailoring the bill include:
 - Require direct exposure to a defined traumatic event;
 - Incorporate a specific list of traumatic events;
 - Require incident reports for qualifying traumatic events;
 - Define the date of injury as the last date of the claimant's direct exposure;
 - Push effective date out 12 months to allow time to adjust Workers' Compensation premiums based on the new liability exposure;
 - Include a sunset provision to allow a review of the law before making it permanent;
 - Provide benefits for PTSI arising from the direct exposure to a defined traumatic event occurring on or after the legislation's date of enactment; and
 - Place a duration cap on benefits.
- Instead of enhancing benefits under Workers' Compensation, PA could also implement an alternative solution used by another state for PTSI or other types of medical conditions and:
 - Create a separate system to compensate first responders afflicted with PTSI (Ohio);
 - Create a state fund to pay responder's PTSI medical claims (South Carolina); or
 - Create a PTSI benefits trust outside of Workers' Compensation (Colorado)
- PA has recently enacted two laws to address PTSI in first responders
 - Establishing mental health and stress management guidelines, peer to peer support, a first responder helpline, training
 - Law enforcement mental health evaluations after an incident of lethal force, upon an officer's request, or as recommended by a supervisor. Officers must be cleared to resume full duty.