

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL ESTIMATE:

Yes 12/20/2018
7/26/2019

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government
Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

RWH/CL

(CORRECTED COPY)
P.L. 2019, CHAPTER 156, *approved July 8, 2019*
Senate, No. 716 (*First Reprint*)

1 AN ACT concerning workers' compensation, public safety workers
2 and other employees and supplementing chapter 15 of Title 34 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "Thomas P.
9 Canzanella Twenty First Century First Responders Protection Act."

10
11 2. The Legislature hereby finds and declares:

12 a. Since the terrorist attacks of September 11, 2001, and the
13 subsequent discovery of terrorist use of anthrax against American
14 citizens that year, millions of dollars of State and federal funds have
15 been spent, and many thousands of man-hours dedicated, to train
16 and equip public safety workers in New Jersey regarding the
17 management of terrorist attacks and other man-made or natural
18 disasters;

19 b. Public safety workers are required by necessity to take great
20 personal risks of serious injury, illness and death in their duties to
21 protect the people of New Jersey from the dangers of catastrophic
22 emergencies, including, but in no way limited to, terrorist attacks
23 and epidemics;

24 c. The risks of exposure to carcinogens, communicable
25 diseases, radiation and related hazards to health, already especially
26 high for fire, police, emergency, medical and other public safety
27 workers, is further increased by the duties of such workers in
28 response to catastrophic emergencies, epidemics, and terrorist
29 attacks which may involve materials related to biological or
30 chemical warfare, or industrial chemicals or other hazardous
31 materials released in connection with terrorist attacks against
32 military, governmental, industrial, infrastructural, and other
33 vulnerable facilities; and

34 d. Many of the severe, painful and even fatal diseases and
35 health conditions which afflict these workers because of those
36 exposures and duties, such as cancer, may take long periods of time
37 to manifest themselves;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted June 13, 2019.

1 e. It is therefore an appropriate public policy to modernize the
2 workers' compensation system in this State to ensure the meeting of
3 the critical needs of public safety workers who are New Jersey's
4 first line of defense in the event of catastrophic emergencies,
5 epidemics and terrorist attacks, and assure that those workers are
6 not denied a level of support which is commensurate to the
7 sacrifices they and their families make for the safety and wellbeing
8 of the citizens of this State and the nation.

9
10 3. For the purposes of this act:

11 "Hazardous chemicals or materials used in, or related to,
12 chemical warfare" means chemicals and materials which may be
13 used in chemical warfare, including, but not limited to, nerve
14 agents, chemical asphyxiates, choking agents, blister agents,
15 incapacitating agents, explosives, and includes other toxic,
16 carcinogenic or otherwise hazardous industrial chemicals and
17 materials to which public safety workers and members of the public
18 may be exposed in connection with possible terrorist attacks against
19 military, governmental, industrial, infrastructural, and other
20 vulnerable facilities.

21 "Known carcinogen" means a substance which ¹["may cause
22 cancer, including any substance identified as a carcinogen] is
23 known, or generally accepted by the scientific community to cause
24 cancer in humans, as identified¹ by the State Department of Health
25 or by the International Agency for Research on Cancer.

26 "Pathogens or biological toxins used in, or related to, biological
27 warfare or epidemics" means serious communicable diseases,
28 pathogens not necessarily transmitted by sick or infected
29 individuals, such as anthrax, and biological toxins, such as ricin,
30 whether or not in weaponized form.

31 "Public safety worker" includes ¹["], but is not limited to,¹ a
32 member, employee, or officer of a paid, partially-paid, or volunteer
33 fire or police department, force, company or district, including the
34 State Police, a Community Emergency Response Team approved by
35 the New Jersey Office of Emergency Management, or a correctional
36 facility, or a basic or advanced medical technician of a first aid or
37 rescue squad, or any other nurse, basic or advanced medical
38 technician responding to a catastrophic incident and directly
39 involved and in contact with the public during such an incident,
40 either as a volunteer, member of a Community Emergency
41 Response Team or employed or directed by a health care facility.

42 "Serious communicable disease" means any disease which is
43 characterized by the interruption, cessation or disorder of body
44 functions, systems or organs which may result, if not treated, in
45 disability, chronic illness or death, and is transmittable by
46 association with, or proximity to, sick, infected or colonized
47 individuals, including airborne transmission, or is transmittable by
48 contact with their bodily fluids, secretions or excretions. "Serious

1 communicable disease" includes, but is not limited to, meningitis,
2 tuberculosis, viral hepatitis, human immunodeficiency virus
3 infections, acquired immunodeficiency syndrome, cholera,
4 hemorrhagic fever, plague, smallpox, or other disease identified as a
5 serious communicable disease by the Department of Health, and
6 also includes diseases caused by antibiotic resistant organisms.

7
8 4. If 'a public safety worker can demonstrate that' in the
9 course of '[a public safety worker's] his or her' employment, the
10 worker is:

11 a. exposed to¹:

12 (1)¹ the excretions, secretions, blood or other bodily fluids of one
13 or more other individuals or is otherwise subjected to a potential
14 exposure, by the other individual or individuals, including airborne
15 exposure, to a serious communicable disease and any one of the
16 other individuals is diagnosed with a serious communicable disease,
17 '[has symptoms consistent with the serious communicable
18 disease,]' or is otherwise determined to be infected with or at
19 significant risk of contracting the serious communicable disease; or

20 '[b. exposed to] (2)' any pathogen or biological '[toxins]
21 toxin' used in, or related to, biological warfare or epidemics,
22 including airborne exposure, then all care or treatment of the public
23 safety worker, including testing, diagnosis, surveillance or other
24 services needed to ascertain whether the public safety worker
25 contracted a serious communicable disease and any related
26 monitoring of the worker's condition, and all time during which the
27 public safety worker is unable to work while receiving the care or
28 treatment, shall be compensable under the provisions of R.S.34:15-
29 1 et seq., even if, after the care or treatment, it is ascertained that
30 the public safety worker did not contract a serious communicable
31 disease.

32 'b.' If it is ascertained that the public safety worker has
33 contracted a serious communicable disease or related illness under
34 the circumstances set forth in 'subsection a. of' this section, there
35 shall be a presumption that any injury, disability, chronic or
36 corollary illness or death of the public safety worker caused by,
37 attributable to, or attendant to the disease is compensable under the
38 provisions of R.S.34:15-1 et seq. '[, but this] This prima facie'
39 presumption may be rebutted by '[clear and convincing proof] a
40 preponderance of the evidence showing' that the exposure is not
41 linked to the occurrence of the disease. The employer may require
42 the worker to undergo, at the expense of the employer, reasonable
43 testing, evaluation and monitoring of health conditions of the
44 worker which is relevant to determining whether the exposure is
45 linked to the occurrence of the disease, but the presumption of
46 compensability shall not be adversely affected by any failure of the
47 employer to require such testing, evaluation or monitoring.

1 5. Any injury, illness or death of any ¹【employee, including
2 a】¹ public safety worker, resulting from the administration to the
3 ¹【employee】 worker¹ of a vaccine including, but not limited to,
4 smallpox vaccine, to prepare for, or respond to, any actual,
5 threatened, or potential bioterrorism or epidemic, as part of an
6 inoculation program in connection with the ¹【employee's】
7 worker's¹ employment or in connection with any governmental
8 program or recommendation for the inoculation of workers in the
9 ¹【employee's】 worker's¹ occupation, geographical area, or other
10 category that includes the ¹【employee】 worker¹, or resulting from
11 the transmission of disease from another employee or member of
12 the public inoculated under the program, is ¹【deemed】 presumed¹
13 to arise out of and in the course of the employment and all care or
14 treatment of the ¹【employee】 worker¹, including testing, diagnosis,
15 surveillance and monitoring of the ¹【employee's】 worker's¹
16 condition, and all time during which the ¹【employee】 worker¹ is
17 unable to work while receiving the care or treatment, is
18 compensable under the provisions of R.S.34:15-1 et seq. This
19 section shall not be regarded as authorizing any requirement that
20 employees participate in an inoculation program or as diminishing
21 any requirement of law that an inoculation program be voluntary.
22 ¹This prima facie presumption may be rebutted by a preponderance
23 of the evidence showing that the administration of the vaccine is not
24 linked to the injury, illness or death. The employer may require the
25 worker to undergo, at the expense of the employer, reasonable
26 testing, evaluation and monitoring of health conditions of the
27 worker which is relevant to determining whether the administration
28 of the vaccine is linked to the occurrence, but the presumption of
29 compensability shall not be adversely affected by any failure of the
30 employer to require such testing, evaluation or monitoring.¹

31
32 6. Any injury, illness or death of a public safety worker which
33 may be caused by exposure to a known carcinogen, cancer-causing
34 radiation or a radioactive substance, including cancer and damage
35 to reproductive organs, shall be presumed to be compensable under
36 the provisions of R.S.34:15-1 et seq., if the worker demonstrates
37 that he was exposed, due to fire, explosion, spill or other means, to
38 a known carcinogen, cancer-causing radiation or radioactive
39 substances in the course of the worker's employment as a public
40 safety worker ¹and demonstrates that the injury, illness or death has
41 manifested during his or her employment as a public safety
42 worker¹. This ¹prima facie¹ presumption may be rebutted by
43 ¹【clear and convincing proof】 a preponderance of the evidence¹
44 that the exposure is not linked to the injury, illness or death. The
45 employer of the public safety worker may require the worker to
46 undergo, at the expense of the employer, reasonable testing,

1 evaluation and monitoring of health conditions of the worker which
2 is relevant to determining whether the exposure is linked to the
3 occurrence, but the presumption of compensability shall not be
4 adversely affected by any failure of the employer to require such
5 testing, evaluation or monitoring. The employer shall maintain
6 records regarding any instance in which any public safety worker in
7 its employ was deployed to a facility or location where the presence
8 of one or more substances which are known carcinogens is
9 indicated in documents provided to local fire or police departments
10 pursuant to the requirements of section 7 of P.L.1983, c.315
11 (C.34:5A-7) and where fire, explosions, spills or other events
12 occurred which could result in exposure to those carcinogens. The
13 records shall include the identity of each deployed public safety
14 worker and each worker shall be provided notice of the records.
15

16 7. Any injury, illness or death of a firefighter which may be
17 caused by cancer, including leukemia, shall be presumed to be an
18 occupational disease compensable under the provisions of
19 R.S.34:15-1 et seq., if the firefighter has completed not less than
20 seven years of service as a firefighter ¹, regardless of whether the
21 firefighter is in active service or is no longer in active service of a
22 paid, part-paid, or volunteer fire department at the time of the
23 injury, illness or death, provided that the firefighter is not more than
24 75 years of age or has not been out of active service for more than
25 20 years¹. This ¹prima facie¹ presumption may be rebutted by
26 ¹[clear and convincing] a preponderance of the¹ evidence that the
27 occupational disease did not arise out of and in the course of the
28 employment. The employer may require the firefighter to undergo,
29 at the expense of the employer, reasonable testing, evaluation and
30 monitoring of health conditions of the firefighter which is relevant
31 to determining whether the occupational disease arose out of and in
32 the course of the employment, but the presumption of
33 compensability shall not be adversely affected by any failure of the
34 employer to require such testing, evaluation or monitoring. ¹In
35 order to receive this occupational cancer disability benefit, the type
36 of cancer involved shall be a type which may be caused by exposure
37 to heat, radiation, or a known or suspected carcinogen as defined by
38 the International Agency for Research on Cancer.¹ A firefighter
39 with less than seven years of service as a firefighter ¹who
40 experiences injury, illness or death which may be caused by
41 exposure to a known carcinogen, cancer-causing radiation or a
42 radioactive substance, including cancer and damage to reproductive
43 organs,¹ shall be subject to the provisions of section 6 of this act.
44

45 8. This act is intended to affirm certain rights of public safety
46 workers and other employees under the circumstances specified in
47 this act with respect to compensation provided pursuant to

1 R.S.34:15-1 et seq. and shall not be construed as reducing, limiting
2 or curtailing any rights of any other worker or employee to
3 compensation pursuant to R.S.34:15-1 et seq. or of any worker with
4 respect to any claim for compensation pursuant to R.S.34:15-1 et
5 seq., including a claim initiated prior to the effective date of this
6 act.

7
8 19. On the first day of the 18th month following the date of
9 enactment of P.L. , c. (C.) (pending before the Legislature
10 as this bill) and annually on the anniversary of the effective date of
11 P.L. , c. (C.) (pending before the Legislature as this bill), the
12 Commissioner of the Department of Labor and Workforce
13 Development shall, pursuant to section 2 of P.L.1991, c.164
14 (C.52:14-19.1) and in a manner consistent with section 1 of
15 P.L.1966, c.164 (C.34:15-128), submit to the Legislature, a report
16 containing available information regarding:

17 a. The number of claim petitions with respect to which a
18 determination was rendered by the Division of Workers'
19 Compensation during the previous calendar year that an injury or
20 illness enumerated within Sections 4 through 7 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) is
22 compensable; and

23 b. The total amount of workers' compensation benefits
24 awarded by the Division of Workers' Compensation for the claim
25 petitions counted under subsection a. of this section, including
26 medical benefits, temporary total disability benefits, permanent
27 partial benefits, and permanent total benefits.¹

28
29 ¹**[9.] 10.** This act shall take effect immediately.

30
31
32
33
34 _____
35 "Thomas P. Canzanella Twenty First Century First Responders
36 Protection Act"; concerns workers' compensation for public safety
workers.

SENATE, No. 716

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Senator Madden

SYNOPSIS

“Thomas P. Canzanella Twenty First Century First Responders Protection Act”; concerns workers’ compensation for public safety workers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/22/2018)

1 AN ACT concerning workers' compensation, public safety workers
2 and other employees and supplementing chapter 15 of Title 34 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "Thomas P.
9 Canzanella Twenty First Century First Responders Protection Act."

10
11 2. The Legislature hereby finds and declares:

12 a. Since the terrorist attacks of September 11, 2001, and the
13 subsequent discovery of terrorist use of anthrax against American
14 citizens that year, millions of dollars of State and federal funds have
15 been spent, and many thousands of man-hours dedicated, to train
16 and equip public safety workers in New Jersey regarding the
17 management of terrorist attacks and other man-made or natural
18 disasters;

19 b. Public safety workers are required by necessity to take great
20 personal risks of serious injury, illness and death in their duties to
21 protect the people of New Jersey from the dangers of catastrophic
22 emergencies, including, but in no way limited to, terrorist attacks
23 and epidemics;

24 c. The risks of exposure to carcinogens, communicable
25 diseases, radiation and related hazards to health, already especially
26 high for fire, police, emergency, medical and other public safety
27 workers, is further increased by the duties of such workers in
28 response to catastrophic emergencies, epidemics, and terrorist
29 attacks which may involve materials related to biological or
30 chemical warfare, or industrial chemicals or other hazardous
31 materials released in connection with terrorist attacks against
32 military, governmental, industrial, infrastructural, and other
33 vulnerable facilities; and

34 d. Many of the severe, painful and even fatal diseases and
35 health conditions which afflict these workers because of those
36 exposures and duties, such as cancer, may take long periods of time
37 to manifest themselves;

38 e. It is therefore an appropriate public policy to modernize the
39 workers' compensation system in this State to ensure the meeting of
40 the critical needs of public safety workers who are New Jersey's
41 first line of defense in the event of catastrophic emergencies,
42 epidemics and terrorist attacks, and assure that those workers are
43 not denied a level of support which is commensurate to the
44 sacrifices they and their families make for the safety and wellbeing
45 of the citizens of this State and the nation.

46
47 3. For the purposes of this act:

1 “Hazardous chemicals or materials used in, or related to,
2 chemical warfare” means chemicals and materials which may be
3 used in chemical warfare, including, but not limited to, nerve
4 agents, chemical asphyxiates, choking agents, blister agents,
5 incapacitating agents, explosives, and includes other toxic,
6 carcinogenic or otherwise hazardous industrial chemicals and
7 materials to which public safety workers and members of the public
8 may be exposed in connection with possible terrorist attacks against
9 military, governmental, industrial, infrastructural, and other
10 vulnerable facilities.

11 “Known carcinogen” means a substance which may cause
12 cancer, including any substance identified as a carcinogen by the
13 State Department of Health or by the International Agency for
14 Research on Cancer.

15 “Pathogens or biological toxins used in, or related to, biological
16 warfare or epidemics” means serious communicable diseases,
17 pathogens not necessarily transmitted by sick or infected
18 individuals, such as anthrax, and biological toxins, such as ricin,
19 whether or not in weaponized form.

20 “Public safety worker” includes, but is not limited to, a member,
21 employee, or officer of a paid, partially-paid, or volunteer fire or
22 police department, force, company or district, including the State
23 Police, a Community Emergency Response Team approved by the
24 New Jersey Office of Emergency Management, or a correctional
25 facility, or a basic or advanced medical technician of a first aid or
26 rescue squad, or any other nurse, basic or advanced medical
27 technician responding to a catastrophic incident and directly
28 involved and in contact with the public during such an incident,
29 either as a volunteer, member of a Community Emergency
30 Response Team or employed or directed by a health care facility.

31 “Serious communicable disease” means any disease which is
32 characterized by the interruption, cessation or disorder of body
33 functions, systems or organs which may result, if not treated, in
34 disability, chronic illness or death, and is transmittable by
35 association with, or proximity to, sick, infected or colonized
36 individuals, including airborne transmission, or is transmittable by
37 contact with their bodily fluids, secretions or excretions. “Serious
38 communicable disease” includes, but is not limited to, meningitis,
39 tuberculosis, viral hepatitis, human immunodeficiency virus
40 infections, acquired immunodeficiency syndrome, cholera,
41 hemorrhagic fever, plague, smallpox, or other disease identified as a
42 serious communicable disease by the Department of Health, and
43 also includes diseases caused by antibiotic resistant organisms.

44

45 4. If in the course of a public safety worker's employment, the
46 worker is:

47 a. exposed to the excretions, secretions, blood or other bodily
48 fluids of one or more other individuals or is otherwise subjected to a

1 potential exposure, by the other individual or individuals, including
2 airborne exposure, to a serious communicable disease and any one
3 of the other individuals is diagnosed with a serious communicable
4 disease, has symptoms consistent with the serious communicable
5 disease, or is otherwise determined to be infected with or at
6 significant risk of contracting the serious communicable disease; or
7 b. exposed to any pathogen or biological toxins used in, or
8 related to, biological warfare or epidemics, including airborne
9 exposure, then all care or treatment of the public safety worker,
10 including testing, diagnosis, surveillance or other services needed to
11 ascertain whether the public safety worker contracted a serious
12 communicable disease and any related monitoring of the workers'
13 condition, and all time during which the public safety worker is
14 unable to work while receiving the care or treatment, shall be
15 compensable under the provisions of R.S.34:15-1 et seq., even if,
16 after the care or treatment, it is ascertained that the public safety
17 worker did not contract a serious communicable disease. If it is
18 ascertained that the public safety worker has contracted a serious
19 communicable disease or related illness under the circumstances set
20 forth in this section, there shall be a presumption that any injury,
21 disability, chronic or corollary illness or death of the public safety
22 worker caused by, attributable to, or attendant to the disease is
23 compensable under the provisions of R.S.34:15-1 et seq., but this
24 presumption may be rebutted by clear and convincing proof that the
25 exposure is not linked to the occurrence of the disease. The
26 employer may require the worker to undergo, at the expense of the
27 employer, reasonable testing, evaluation and monitoring of health
28 conditions of the worker which is relevant to determining whether
29 the exposure is linked to the occurrence of the disease, but the
30 presumption of compensability shall not be adversely affected by
31 any failure of the employer to require such testing, evaluation or
32 monitoring.

33
34 5. Any injury, illness or death of any employee, including a
35 public safety worker, resulting from the administration to the
36 employee of a vaccine including, but not limited to, smallpox
37 vaccine, to prepare for, or respond to, any actual, threatened, or
38 potential bioterrorism or epidemic, as part of an inoculation
39 program in connection with the employee's employment or in
40 connection with any governmental program or recommendation for
41 the inoculation of workers in the employee's occupation,
42 geographical area, or other category that includes the employee, or
43 resulting from the transmission of disease from another employee or
44 member of the public inoculated under the program, is deemed to
45 arise out of and in the course of the employment and all care or
46 treatment of the employee, including testing, diagnosis, surveillance
47 and monitoring of the employee's condition, and all time during
48 which the employee is unable to work while receiving the care or

1 treatment, is compensable under the provisions of R.S.34:15-1 et
2 seq. This section shall not be regarded as authorizing any
3 requirement that employees participate in an inoculation program or
4 as diminishing any requirement of law that an inoculation program
5 be voluntary.

6
7 6. Any injury, illness or death of a public safety worker which
8 may be caused by exposure to a known carcinogen, cancer-causing
9 radiation or a radioactive substance, including cancer and damage
10 to reproductive organs, shall be presumed to be compensable under
11 the provisions of R.S.34:15-1 et seq., if the worker demonstrates
12 that he was exposed, due to fire, explosion, spill or other means, to
13 a known carcinogen, cancer-causing radiation or radioactive
14 substances in the course of the worker's employment as a public
15 safety worker. This presumption may be rebutted by clear and
16 convincing proof that the exposure is not linked to the injury,
17 illness or death. The employer of the public safety worker may
18 require the worker to undergo, at the expense of the employer,
19 reasonable testing, evaluation and monitoring of health conditions
20 of the worker which is relevant to determining whether the exposure
21 is linked to the occurrence, but the presumption of compensability
22 shall not be adversely affected by any failure of the employer to
23 require such testing, evaluation or monitoring. The employer shall
24 maintain records regarding any instance in which any public safety
25 worker in its employ was deployed to a facility or location where
26 the presence of one or more substances which are known
27 carcinogens is indicated in documents provided to local fire or
28 police departments pursuant to the requirements of section 7 of
29 P.L.1983, c.315 (C.34:5A-7) and where fire, explosions, spills or
30 other events occurred which could result in exposure to those
31 carcinogens. The records shall include the identity of each deployed
32 public safety worker and each worker shall be provided notice of
33 the records.

34
35 7. Any injury, illness or death of a firefighter which may be
36 caused by cancer, including leukemia, shall be presumed to be an
37 occupational disease compensable under the provisions of
38 R.S.34:15-1 et seq., if the firefighter has completed not less than
39 seven years of service as a firefighter. This presumption may be
40 rebutted by clear and convincing evidence that the occupational
41 disease did not arise out of and in the course of the employment.
42 The employer may require the firefighter to undergo, at the expense
43 of the employer, reasonable testing, evaluation and monitoring of
44 health conditions of the firefighter which is relevant to determining
45 whether the occupational disease arose out of and in the course of
46 the employment, but the presumption of compensability shall not be
47 adversely affected by any failure of the employer to require such
48 testing, evaluation or monitoring. A firefighter with less than seven

1 years of service as a firefighter shall be subject to the provisions of
2 section 6 of this act.

3
4 8. This act is intended to affirm certain rights of public safety
5 workers and other employees under the circumstances specified in
6 this act with respect to compensation provided pursuant to
7 R.S.34:15-1 et seq. and shall not be construed as reducing, limiting
8 or curtailing any rights of any other worker or employee to
9 compensation pursuant to R.S.34:15-1 et seq. or of any worker with
10 respect to any claim for compensation pursuant to R.S.34:15-1 et
11 seq., including a claim initiated prior to the effective date of this
12 act.

13
14 9. This act shall take effect immediately.

15
16
17 STATEMENT

18
19 This bill creates a rebuttable presumption of workers'
20 compensation coverage for public safety workers and other
21 employees in certain circumstances.

22 The bill affirms that if, in the course of employment, a public
23 safety worker is exposed to a serious communicable disease or a
24 biological warfare or epidemic-related pathogen or biological toxin,
25 all care or treatment of the worker, including services needed to
26 ascertain whether the worker contracted the disease, shall be
27 compensable under workers' compensation, even if the worker is
28 found not to have contracted the disease. If the worker is found to
29 have contracted a disease, there shall be a rebuttable presumption
30 that any injury, disability, chronic or corollary illness or death
31 caused by the disease is compensable under workers' compensation.

32 The bill affirms workers' compensation coverage for any injury,
33 illness or death of any employee, including an employee who is not
34 a public safety worker, arising from the administration of a vaccine
35 related to threatened or potential bioterrorism or epidemic as part of
36 an inoculation program in connection with the employee's
37 employment or in connection with any governmental program or
38 recommendation for the inoculation of workers.

39 The bill creates a rebuttable presumption that any condition or
40 impairment of health of a public safety worker which may be
41 caused by exposure to cancer-causing radiation or radioactive
42 substances is a compensable occupational disease under workers'
43 compensation if the worker was exposed to a carcinogen, or the
44 cancer-causing radiation or radioactive substance, in the course of
45 employment. Employers are required to maintain records of
46 instances of the workers deployed where the presence of known
47 carcinogens was indicated by documents provided to local fire or
48 police departments under the "Worker and Community Right to

1 Know Act,” P.L.1983, c.315 (C.34:5A-1 et seq.) and where events
2 occurred which could result in exposure to those carcinogens.

3 In the case of any firefighter with seven or more years of service,
4 the bill creates a rebuttable presumption that, if the firefighter
5 suffers an injury, illness or death which may be caused by cancer,
6 the cancer is a compensable occupational disease.

7 The bill provides that, with respect to all of the rebuttable
8 presumptions of coverage, employers may require workers to
9 undergo, at employer expense, reasonable testing, evaluation and
10 monitoring of worker health conditions relevant to determining
11 whether exposures or other presumed causes are actually linked to
12 the deaths, illnesses or disabilities, and further provides that the
13 presumptions of compensability are not adversely affected by
14 failures of employers to require testing, evaluation or monitoring.

15 The public safety workers covered by the bill include paid or
16 volunteer emergency, correctional, fire, police and medical
17 personnel.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 716

STATE OF NEW JERSEY

DATED: MAY 21, 2018

The Senate Labor Committee reports favorably Senate Bill No. 716.

This bill creates a rebuttable presumption of workers' compensation coverage for public safety workers and other employees in certain circumstances.

The bill affirms that if, in the course of employment, a public safety worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and certain medical personnel.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 716

STATE OF NEW JERSEY

DATED: JUNE 4, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 716.

This bill creates a rebuttable presumption of workers' compensation coverage for public safety workers and other employees in certain circumstances.

The bill affirms that if, in the course of employment, a public safety worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and certain medical personnel.

FISCAL IMPACT:

The OLS estimates that the bill will most likely increase annual expenditures by State and local public entities that employ or otherwise utilize public safety workers as defined by the bill. The bill will most likely result in increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may cause increased claims for workers' compensation benefits and the requirement for public safety employers to maintain additional records.

The OLS cannot quantify the cost of this bill to the State and local units due to uncertainty on the number of individuals who may submit claims each year and the costs of those claims. Additionally, the OLS does not have sufficient data on the costs to establish the programs and to maintain the additional records required pursuant to this bill.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

SENATE, No. 716

STATE OF NEW JERSEY

DATED: OCTOBER 18, 2018

The Assembly Labor Committee reports favorably Senate Bill No. 716.

This bill creates a rebuttable presumption of workers' compensation coverage for public safety workers and other employees in certain circumstances.

The bill affirms that if, in the course of employment, a public safety worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and certain medical personnel.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 716

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably Senate Bill No. 716, with committee amendments.

As amended, this bill creates a rebuttable presumption of workers' compensation coverage for public safety workers and other employees in certain circumstances.

The bill affirms that if a public safety worker can demonstrate that in the course of his or her employment, the worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

As amended and reported, this bill is identical to Assembly Bill No. 1741, as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee proposes to amend the bill to:

(1) change the definition of “known carcinogen” a substance which may cause cancer, including any substance identified as a carcinogen by the State Department of Health or by the International Agency for Research on Cancer to a substance that is known, suspected, or generally accepted by the scientific community to cause cancer in humans, as identified by the State Department of Health or by the International Agency for Research on Cancer;

(2) make the definition of “public safety worker” inclusive of only the types of employees enumerated in the bill;

(3) clarify that the public worker must be able to demonstrate that he or she has been exposed to a disease or toxin in the course of his or her employment;

(4) change the burden on the employer to rebut the presumption of compensability for injury or illness of public safety workers and firefighters from clear and convincing proof to a preponderance of the evidence;

(5) provide that any injury, illness or death of a firefighter who has completed at least seven years of service which may be caused by cancer, including leukemia, is presumed to be compensable regardless of whether the firefighter is in active service or is no longer in active service of a paid, part-paid, or volunteer fire department at the time of the injury, illness or death, provided that the firefighter is not more than 75 years of age or has not been out of active service for more than 20 years;

(6) provide a presumption of compensability of any injury, illness or death of a public safety worker which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance, including cancer and damage to reproductive organs, only if

the worker demonstrates the injury, illness or death has manifested during his or her employment as a public safety worker; and

(7) Provide that the Commissioner of the Department of Labor and Workforce Development is required to maintain records of the claims and costs incurred under the bill and issue an annual report to the public beginning 18 months after the effective date of the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will most likely increase annual expenditures by State and local public entities that utilize public safety workers.

The bill will also most likely result in annual increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may result in increased claims for workers' compensation benefits, and the requirement for public safety employers to maintain additional records.

The OLS cannot quantify the cost of this bill to the State and local units due to uncertainty on the number of individuals who may submit claims each year and the costs of those claims. Additionally, the OLS does not have sufficient data on the costs to establish the programs and to maintain the additional records required pursuant to this bill.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 716
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JUNE 6, 2018

SUMMARY

Synopsis: “Thomas P. Canzanella Twenty First Century First Responders Protection Act”; concerns workers’ compensation for public safety workers.

Type of Impact: Indeterminate recurring expenditure increase.

Agencies Affected: All State and local public entities which utilize public safety workers.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will most likely increase annual expenditures by State and local public entities that utilize public safety workers.
- The bill will also most likely result in annual increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may result in increased claims for workers’ compensation benefits, and the requirement for public safety employers to maintain additional records.
- The OLS cannot quantify the cost of this bill to the State and local units due to uncertainty on the number of individuals who may submit claims each year and the costs of those claims. Additionally, the OLS does not have sufficient data on the costs to establish the programs and to maintain the additional records required pursuant to this bill.
- The OLS notes that “public safety worker” includes, but is not limited to, a member, employee, or officer of a paid, partially-paid, or volunteer fire or police department, force, company or district, including the State Police, a Community Emergency Response Team approved by the New Jersey Office of Emergency Management, or a correctional facility, or a basic or advanced medical technician of a first aid or rescue squad, or any other nurse, or basic or advanced medical technician responding to a catastrophic incident and directly involved and in contact with the public during such an incident, either as a volunteer,

member of a Community Emergency Response Team or employed or directed by a health care facility. This definition of public safety worker is similar to that which is already included in the workers' compensation law (R.S.34:15-1 et seq.), but not identical.

BILL DESCRIPTION

The bill creates a rebuttable presumption of workers' compensation coverage for public safety workers in certain circumstances. The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

The bill affirms that if, in the course of employment, a public safety worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any worker, including a worker who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the worker's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances in which the workers deployed to a facility or location where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, due to the extremely high likelihood that such a firefighter will be repeatedly exposed to smoke and other carcinogens, the bill creates a rebuttable presumption that if the firefighter suffers an injury, illness or death which may be caused by cancer, that the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will most likely increase annual expenditures by State and local public entities that employ or otherwise utilize public safety workers as defined by the bill. The bill will most likely result in increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may cause increased claims for workers' compensation benefits and the requirement for public safety employers to maintain additional records.

The bill provides public safety workers, in certain cases, who incur an injury, disability or death, with a presumption that the injury, disability or death they experience is related to work place activities and is compensable through workers' compensation benefits. This is a shift in the current system in which the worker has the burden of proving that the injury, disability or death is related to work place activities. It is possible that this shift will result in the filing of additional claims for workers' compensation benefits. The OLS notes that individuals may be more likely to apply for workers' compensation benefits, particularly when the root cause of an injury or illness is at question, if there is an understanding that they do not have to bear the burden of proving the connection between their workplace activities and their injury, disability or death. However, it should be noted that these injuries, illnesses and deaths under the system for workers' compensation benefits, and shifting the burden of proof, may have little or no fiscal impact. It is not possible to quantify with any certainty the number of cases and the cost of the cases that may be filed due to the change proposed pursuant to this bill.

The OLS does not have access to independent actuarial information to analyze and determine the impact of the possibility of increased claims on workers' compensation premium calculations and total costs of claims. However, since a majority of public entities are self-insured for workers' compensation, any increases to the costs of workers' compensation will be funded directly by these entities.

Section 6 of the bill establishes that any injury, illness or death, including cancer and damage to reproductive organs, incurred by a public safety worker, which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance will be presumed to be compensated through workers' compensation, if the worker demonstrates exposure to a known carcinogen, cancer-causing radiation or radioactive substances in the course of employment. Furthermore, section 6 of the bill requires that the employer must maintain records of all public safety workers in its employ who were deployed to an area in which fire, explosions, spills or other events occurred which could result in exposure to carcinogens. The record keeping requirement is for all public entities and it is intended to assist the employer and the worker to demonstrate a connection, or lack thereof, for any injury, illness, or death for any cancer or damage to reproductive organs. The tracking of these incidents of exposure may be costly and time consuming. A public safety employer will need to ensure that the records are comprehensive and thorough in order to track exposure for workers due to the possibility of future benefit claims. The OLS cannot determine with any certainty the cost of this record keeping and impact on future workers' compensation claims.

Section 7 of the bill establishes the presumption for any firefighter, with more than seven years of service, who suffers injury, illness or death caused by cancer that this injury, illness or death is an occupational disease and the burden of proof is borne by the employer for these firefighters. Firefighters with more than seven years of experience will not have to demonstrate exposure to a known carcinogen, cancer-causing radiation or a radioactive substance. The OLS cannot determine with any certainty the impact of this change on future workers' compensation claims.

In summary, although the OLS cannot quantify the cost of this legislation to the State and local public entities, it is possible that there will be an increase in the cost of workers' compensation claims to self-insured entities and in workers' compensation premiums for those

entities that purchase coverage. These increases will be due to the potentially larger number of individuals filing for workers' compensation coverage in instances in which the root cause of illness, injury or death is uncertain. There may also be an increase in costs related to record keeping requirements for public safety employers pursuant to section 6 of the bill.

Section: Commerce, Labor and Industry

*Analyst: Juan C. Rodriguez
Associate Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 716

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JULY 26, 2019

SUMMARY

- Synopsis:** “Thomas P. Canzanella Twenty First Century First Responders Protection Act”; concerns workers’ compensation for public safety workers.
- Type of Impact:** Indeterminate recurring expenditure increase.
- Agencies Affected:** All State and local public entities which utilize public safety workers.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will most likely increase annual expenditures by State and local public entities that utilize public safety workers.
- The bill will also most likely result in annual increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may result in increased claims for workers’ compensation benefits, and the requirement for public safety employers to maintain additional records.
- The OLS cannot quantify the cost of this bill to the State and local units due to uncertainty on the number of individuals who may submit claims each year and the costs of those claims. Additionally, the OLS does not have sufficient data on the costs to establish the programs and to maintain the additional records required pursuant to this bill.

BILL DESCRIPTION

The bill creates a rebuttable presumption of workers’ compensation coverage for public safety workers in certain circumstances. The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

The bill affirms that if a public safety worker can demonstrate that in the course of his or her employment, the worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will most likely increase annual expenditures by State and local public entities that employ or otherwise utilize public safety workers as defined by the bill. The bill will most likely result in increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may cause increased claims for workers' compensation benefits and the requirement for public safety employers to maintain additional records.

The bill provides public safety workers, in certain cases, who incur an injury, disability or death, with a presumption that the injury, disability or death they experience is related to work place activities and is compensable through workers' compensation benefits. This is a shift in the

current system in which the worker has the burden of proving that the injury, disability or death is related to work place activities. It is possible that this shift will result in the filing of additional claims for workers' compensation benefits. The OLS notes that individuals may be more likely to apply for workers' compensation benefits, particularly when the root cause of an injury or illness is at question, if there is an understanding that they do not have to bear the burden of proving the connection between their workplace activities and their injury, disability or death. However, it should be noted that these injuries, illnesses and deaths under the system for workers' compensation benefits, and shifting the burden of proof, may have little or no fiscal impact. It is not possible to quantify with any certainty the number of cases and the cost of the cases that may be filed due to the change proposed pursuant to this bill.

The OLS does not have access to independent actuarial information to analyze and determine the impact of projected claim increases on workers' compensation premium calculations and total costs. However, since a majority of public entities are self-insured for workers' compensation, any increases to the costs of workers' compensation will be funded directly by these entities.

Section 6 of the bill establishes that any injury, illness or death, including cancer and damage to reproductive organs, incurred by a public safety worker, which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance will be presumed to be compensated through workers' compensation, if the worker demonstrates exposure and disease manifestation to a known carcinogen, cancer-causing radiation, or radioactive substances in the course of employment. Furthermore, section 6 of the bill requires that the employer must maintain records of all public safety workers in its employ who were deployed to an area in which fire, explosions, spills or other events occurred which could result in exposure to carcinogens. The record keeping requirement is for all public entities and is intended to assist the employer and the worker to demonstrate a connection, or lack thereof, for any injury, illness, or death due to cancer or damage to reproductive organs. The tracking of these incidents of exposure may be costly and time consuming. A public safety employer will need to ensure that the records are comprehensive and thorough in order to track exposure for workers due to the possibility of future benefit claims. The OLS cannot determine with any certainty the cost of this record keeping and impact on future workers' compensation claims.

Section 7 of the bill establishes the presumption for any firefighter, with more than seven years of service, who suffers injury, illness or death caused by cancer that this injury, illness or death is an occupational disease and the burden of proof is borne by the employer. Firefighters with more than seven years of experience will not have to demonstrate exposure to a known carcinogen, cancer-causing radiation or a radioactive substance. The OLS cannot determine with any certainty the impact of this change on future workers' compensation claims.

In summary, although the OLS cannot quantify the cost of this legislation to the State and local public entities, it is possible that there will be an increase in the cost of workers' compensation claims to self-insured entities and in workers' compensation premiums for those entities that purchase coverage. These increases will be due to the potentially larger number of individuals filing for workers' compensation coverage in instances in which the root cause of illness, injury or death is uncertain. There may also be an increase in costs related to record keeping requirements for public safety employers pursuant to section 6 of the bill.

Section: Commerce, Labor and Industry

Analyst: Juan C. Rodriguez
Associate Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 1741

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

SYNOPSIS

“Thomas P. Canzanella Twenty First Century First Responders Protection Act”; concerns workers’ compensation for public safety workers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/8/2018)

1 AN ACT concerning workers' compensation, public safety workers
2 and other employees and supplementing chapter 15 of Title 34 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "Thomas P.
9 Canzanella Twenty First Century First Responders Protection Act."

10
11 2. The Legislature hereby finds and declares:

12 a. Since the terrorist attacks of September 11, 2001, and the
13 subsequent discovery of terrorist use of anthrax against American
14 citizens that year, millions of dollars of State and federal funds have
15 been spent, and many thousands of man-hours dedicated, to train
16 and equip public safety workers in New Jersey regarding the
17 management of terrorist attacks and other man-made or natural
18 disasters;

19 b. Public safety workers are required by necessity to take great
20 personal risks of serious injury, illness and death in their duties to
21 protect the people of New Jersey from the dangers of catastrophic
22 emergencies, including, but in no way limited to, terrorist attacks
23 and epidemics;

24 c. The risks of exposure to carcinogens, communicable
25 diseases, radiation and related hazards to health, already especially
26 high for fire, police, emergency, medical and other public safety
27 workers, is further increased by the duties of such workers in
28 response to catastrophic emergencies, epidemics, and terrorist
29 attacks which may involve materials related to biological or
30 chemical warfare, or industrial chemicals or other hazardous
31 materials released in connection with terrorist attacks against
32 military, governmental, industrial, infrastructural, and other
33 vulnerable facilities; and

34 d. Many of the severe, painful and even fatal diseases and
35 health conditions which afflict these workers because of those
36 exposures and duties, such as cancer, may take long periods of time
37 to manifest themselves;

38 e. It is therefore an appropriate public policy to modernize the
39 workers' compensation system in this State to ensure the meeting of
40 the critical needs of public safety workers who are New Jersey's
41 first line of defense in the event of catastrophic emergencies,
42 epidemics and terrorist attacks, and assure that those workers are
43 not denied a level of support which is commensurate to the
44 sacrifices they and their families make for the safety and wellbeing
45 of the citizens of this State and the nation.

46
47 3. For the purposes of this act:

1 “Hazardous chemicals or materials used in, or related to,
2 chemical warfare” means chemicals and materials which may be
3 used in chemical warfare, including, but not limited to, nerve
4 agents, chemical asphyxiates, choking agents, blister agents,
5 incapacitating agents, explosives, and includes other toxic,
6 carcinogenic or otherwise hazardous industrial chemicals and
7 materials to which public safety workers and members of the public
8 may be exposed in connection with possible terrorist attacks against
9 military, governmental, industrial, infrastructural, and other
10 vulnerable facilities.

11 “Known carcinogen” means a substance which may cause
12 cancer, including any substance identified as a carcinogen by the
13 State Department of Health or by the International Agency for
14 Research on Cancer.

15 “Pathogens or biological toxins used in, or related to, biological
16 warfare or epidemics” means serious communicable diseases,
17 pathogens not necessarily transmitted by sick or infected
18 individuals, such as anthrax, and biological toxins, such as ricin,
19 whether or not in weaponized form.

20 “Public safety worker” includes, but is not limited to, a member,
21 employee, or officer of a paid, partially-paid, or volunteer fire or
22 police department, force, company or district, including the State
23 Police, a Community Emergency Response Team approved by the
24 New Jersey Office of Emergency Management, or a correctional
25 facility, or a basic or advanced medical technician of a first aid or
26 rescue squad, or any other nurse, basic or advanced medical
27 technician responding to a catastrophic incident and directly
28 involved and in contact with the public during such an incident,
29 either as a volunteer, member of a Community Emergency
30 Response Team or employed or directed by a health care facility.

31 “Serious communicable disease” means any disease which is
32 characterized by the interruption, cessation or disorder of body
33 functions, systems or organs which may result, if not treated, in
34 disability, chronic illness or death, and is transmittable by
35 association with, or proximity to, sick, infected or colonized
36 individuals, including airborne transmission, or is transmittable by
37 contact with their bodily fluids, secretions or excretions. “Serious
38 communicable disease” includes, but is not limited to, meningitis,
39 tuberculosis, viral hepatitis, human immunodeficiency virus
40 infections, acquired immunodeficiency syndrome, cholera,
41 hemorrhagic fever, plague, smallpox, or other disease identified as a
42 serious communicable disease by the Department of Health, and
43 also includes diseases caused by antibiotic resistant organisms.

44

45 4. If in the course of a public safety worker's employment, the
46 worker is:

47 a. exposed to the excretions, secretions, blood or other bodily
48 fluids of one or more other individuals or is otherwise subjected to a

1 potential exposure, by the other individual or individuals, including
2 airborne exposure, to a serious communicable disease and any one
3 of the other individuals is diagnosed with a serious communicable
4 disease, has symptoms consistent with the serious communicable
5 disease, or is otherwise determined to be infected with or at
6 significant risk of contracting the serious communicable disease; or
7 b. exposed to any pathogen or biological toxins used in, or
8 related to, biological warfare or epidemics, including airborne
9 exposure, then all care or treatment of the public safety worker,
10 including testing, diagnosis, surveillance or other services needed to
11 ascertain whether the public safety worker contracted a serious
12 communicable disease and any related monitoring of the workers'
13 condition, and all time during which the public safety worker is
14 unable to work while receiving the care or treatment, shall be
15 compensable under the provisions of R.S.34:15-1 et seq., even if,
16 after the care or treatment, it is ascertained that the public safety
17 worker did not contract a serious communicable disease. If it is
18 ascertained that the public safety worker has contracted a serious
19 communicable disease or related illness under the circumstances set
20 forth in this section, there shall be a presumption that any injury,
21 disability, chronic or corollary illness or death of the public safety
22 worker caused by, attributable to, or attendant to the disease is
23 compensable under the provisions of R.S.34:15-1 et seq., but this
24 presumption may be rebutted by clear and convincing proof that the
25 exposure is not linked to the occurrence of the disease. The
26 employer may require the worker to undergo, at the expense of the
27 employer, reasonable testing, evaluation and monitoring of health
28 conditions of the worker which is relevant to determining whether
29 the exposure is linked to the occurrence of the disease, but the
30 presumption of compensability shall not be adversely affected by
31 any failure of the employer to require such testing, evaluation or
32 monitoring.

33
34 5. Any injury, illness or death of any employee, including a
35 public safety worker, resulting from the administration to the
36 employee of a vaccine including, but not limited to, smallpox
37 vaccine, to prepare for, or respond to, any actual, threatened, or
38 potential bioterrorism or epidemic, as part of an inoculation
39 program in connection with the employee's employment or in
40 connection with any governmental program or recommendation for
41 the inoculation of workers in the employee's occupation,
42 geographical area, or other category that includes the employee, or
43 resulting from the transmission of disease from another employee or
44 member of the public inoculated under the program, is deemed to
45 arise out of and in the course of the employment and all care or
46 treatment of the employee, including testing, diagnosis, surveillance
47 and monitoring of the employee's condition, and all time during
48 which the employee is unable to work while receiving the care or

1 treatment, is compensable under the provisions of R.S.34:15-1 et
2 seq. This section shall not be regarded as authorizing any
3 requirement that employees participate in an inoculation program or
4 as diminishing any requirement of law that an inoculation program
5 be voluntary.

6
7 6. Any injury, illness or death of a public safety worker which
8 may be caused by exposure to a known carcinogen, cancer-causing
9 radiation or a radioactive substance, including cancer and damage
10 to reproductive organs, shall be presumed to be compensable under
11 the provisions of R.S.34:15-1 et seq., if the worker demonstrates
12 that he was exposed, due to fire, explosion, spill or other means, to
13 a known carcinogen, cancer-causing radiation or radioactive
14 substances in the course of the worker's employment as a public
15 safety worker. This presumption may be rebutted by clear and
16 convincing proof that the exposure is not linked to the injury,
17 illness or death. The employer of the public safety worker may
18 require the worker to undergo, at the expense of the employer,
19 reasonable testing, evaluation and monitoring of health conditions
20 of the worker which is relevant to determining whether the exposure
21 is linked to the occurrence, but the presumption of compensability
22 shall not be adversely affected by any failure of the employer to
23 require such testing, evaluation or monitoring. The employer shall
24 maintain records regarding any instance in which any public safety
25 worker in its employ was deployed to a facility or location where
26 the presence of one or more substances which are known
27 carcinogens is indicated in documents provided to local fire or
28 police departments pursuant to the requirements of section 7 of
29 P.L.1983, c.315 (C.34:5A-7) and where fire, explosions, spills or
30 other events occurred which could result in exposure to those
31 carcinogens. The records shall include the identity of each
32 deployed public safety worker and each worker shall be provided
33 notice of the records.

34
35 7. Any injury, illness or death of a firefighter which may be
36 caused by cancer, including leukemia, shall be presumed to be an
37 occupational disease compensable under the provisions of
38 R.S.34:15-1 et seq., if the firefighter has completed not less than
39 seven years of service as a firefighter. This presumption may be
40 rebutted by clear and convincing evidence that the occupational
41 disease did not arise out of and in the course of the employment.
42 The employer may require the firefighter to undergo, at the expense
43 of the employer, reasonable testing, evaluation and monitoring of
44 health conditions of the firefighter which is relevant to determining
45 whether the occupational disease arose out of and in the course of
46 the employment, but the presumption of compensability shall not be
47 adversely affected by any failure of the employer to require such
48 testing, evaluation or monitoring. A firefighter with less than seven

1 years of service as a firefighter shall be subject to the provisions of
2 section 6 of this act.

3
4 8. This act is intended to affirm certain rights of public safety
5 workers and other employees under the circumstances specified in
6 this act with respect to compensation provided pursuant to
7 R.S.34:15-1 et seq. and shall not be construed as reducing, limiting
8 or curtailing any rights of any other worker or employee to
9 compensation pursuant to R.S.34:15-1 et seq. or of any worker with
10 respect to any claim for compensation pursuant to R.S.34:15-1 et
11 seq., including a claim initiated prior to the effective date of this
12 act.

13
14 9. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill creates a rebuttable presumption of workers'
20 compensation coverage for public safety workers and other
21 employees in certain circumstances.

22 The bill affirms that if, in the course of employment, a public
23 safety worker is exposed to a serious communicable disease or a
24 biological warfare or epidemic-related pathogen or biological toxin,
25 all care or treatment of the worker, including services needed to
26 ascertain whether the worker contracted the disease, shall be
27 compensable under workers' compensation, even if the worker is
28 found not to have contracted the disease. If the worker is found to
29 have contracted a disease, there shall be a rebuttable presumption
30 that any injury, disability, chronic or corollary illness or death
31 caused by the disease is compensable under workers' compensation.

32 The bill affirms workers' compensation coverage for any injury,
33 illness or death of any employee, including an employee who is not
34 a public safety worker, arising from the administration of a vaccine
35 related to threatened or potential bioterrorism or epidemic as part of
36 an inoculation program in connection with the employee's
37 employment or in connection with any governmental program or
38 recommendation for the inoculation of workers.

39 The bill creates a rebuttable presumption that any condition or
40 impairment of health of a public safety worker which may be
41 caused by exposure to cancer-causing radiation or radioactive
42 substances is a compensable occupational disease under workers'
43 compensation if the worker was exposed to a carcinogen, or the
44 cancer-causing radiation or radioactive substance, in the course of
45 employment. Employers are required to maintain records of
46 instances of the workers deployed where the presence of known
47 carcinogens was indicated by documents provided to local fire or
48 police departments under the "Worker and Community Right to

A1741 QUIJANO, BENSON

7

1 Know Act,” P.L.1983, c.315 (C.34:5A-1 et seq.) and where events
2 occurred which could result in exposure to those carcinogens.

3 In the case of any firefighter with seven or more years of service,
4 the bill creates a rebuttable presumption that, if the firefighter
5 suffers an injury, illness or death which may be caused by cancer,
6 the cancer is a compensable occupational disease.

7 The bill provides that, with respect to all of the rebuttable
8 presumptions of coverage, employers may require workers to
9 undergo, at employer expense, reasonable testing, evaluation and
10 monitoring of worker health conditions relevant to determining
11 whether exposures or other presumed causes are actually linked to
12 the deaths, illnesses or disabilities, and further provides that the
13 presumptions of compensability are not adversely affected by
14 failures of employers to require testing, evaluation or monitoring.

15 The public safety workers covered by the bill include paid or
16 volunteer emergency, correctional, fire, police and medical
17 personnel.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1741

STATE OF NEW JERSEY

DATED: OCTOBER 18, 2018

The Assembly Labor Committee reports favorably Assembly Bill No. 1741.

This bill creates a rebuttable presumption of workers' compensation coverage for public safety workers and other employees in certain circumstances.

The bill affirms that if, in the course of employment, a public safety worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1741

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1741, with committee amendments.

As amended, this bill creates a rebuttable presumption of workers' compensation coverage for public safety workers and other employees in certain circumstances.

The bill affirms that if a public safety worker can in the course of his or her employment, demonstrates that the worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

As amended and reported, this bill is identical to Senate Bill No. 716, as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee proposes to amend the bill to:

(1) change the definition of “known carcinogen” a substance which may cause cancer, including any substance identified as a carcinogen by the State Department of Health or by the International Agency for Research on Cancer to a substance that is known, suspected, or generally accepted by the scientific community to cause cancer in humans, as identified by the State Department of Health or by the International Agency for Research on Cancer;

(2) make the definition of “public safety worker” inclusive of only the types of employees enumerated in the bill;

(3) clarify that the public safety worker must be able to demonstrate that he or she has been exposed to a disease or toxin in the course of his or her employment;

(4) change the burden on the employer to rebut the presumption of compensability for injury or illness of public safety workers and firefighters from clear and convincing proof to a preponderance of the evidence;

(5) provide that any injury, illness or death of a firefighter who has completed at least seven years of service which may be caused by cancer, including leukemia, is presumed to be compensable regardless of whether the firefighter is in active service or is no longer in active service of a paid, part-paid, or volunteer fire department at the time of the injury, illness or death, provided that the firefighter is not more than 75 years of age or has not been out of active service for more than 20 years;

(6) provide a presumption of compensability of any injury, illness or death of a public safety worker which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance, including cancer and damage to reproductive organs, only if

the worker demonstrates the injury, illness or death has manifested during his or her employment as a public safety worker; and

(7) Provide that the Commissioner of the Department of Labor and Workforce Development is required to maintain records of the claims and costs incurred under the bill and issue an annual report to the public beginning 18 months after the effective date of the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will most likely increase annual expenditures by State and local public entities that utilize public safety workers.

The bill will also most likely result in annual increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may result in increased claims for workers' compensation benefits, and the requirement for public safety employers to maintain additional records.

The OLS cannot quantify the cost of this bill to the State and local units due to uncertainty on the number of individuals who may submit claims each year and the costs of those claims. Additionally, the OLS does not have sufficient data on the costs to establish the programs and to maintain the additional records required pursuant to this bill.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 1741
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: DECEMBER 20, 2018

SUMMARY

- Synopsis:** “Thomas P. Canzanella Twenty First Century First Responders Protection Act”; concerns workers’ compensation for public safety workers.
- Type of Impact:** Indeterminate recurring expenditure increase.
- Agencies Affected:** All State and local public entities which utilize public safety workers.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will most likely increase annual expenditures by State and local public entities that utilize public safety workers.
- The bill will also most likely result in annual increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may result in increased claims for workers’ compensation benefits, and the requirement for public safety employers to maintain additional records.
- The OLS cannot quantify the cost of this bill to the State and local units due to uncertainty on the number of individuals who may submit claims each year and the costs of those claims. Additionally, the OLS does not have sufficient data on the costs to establish the programs and to maintain the additional records required pursuant to this bill.
- The OLS notes that “public safety worker” includes, but is not limited to, a member, employee, or officer of a paid, partially-paid, or volunteer fire or police department, force, company or district, including the State Police, a Community Emergency Response Team approved by the New Jersey Office of Emergency Management, or a correctional facility, or a basic or advanced medical technician of a first aid or rescue squad, or any other nurse, or basic or advanced medical technician responding to a catastrophic incident and directly involved and in contact with the public during such an incident, either as a volunteer,

member of a Community Emergency Response Team or employed or directed by a health care facility. This definition of public safety worker is similar to that which is already included in the workers' compensation law (R.S.34:15-1 et seq.), but not identical.

BILL DESCRIPTION

The bill creates a rebuttable presumption of workers' compensation coverage for public safety workers in certain circumstances. The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

The bill affirms that if, in the course of employment, a public safety worker is exposed to a serious communicable disease or a biological warfare or epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any worker, including a worker who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the worker's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances in which the workers deployed to a facility or location where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, due to the extremely high likelihood that such a firefighter will be repeatedly exposed to smoke and other carcinogens, the bill creates a rebuttable presumption that if the firefighter suffers an injury, illness or death which may be caused by cancer, that the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will most likely increase annual expenditures by State and local public entities that employ or otherwise utilize public safety workers as defined by the bill. The bill will most likely result in increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may cause increased claims for workers' compensation benefits and the requirement for public safety employers to maintain additional records.

The bill provides public safety workers, in certain cases, who incur an injury, disability or death, with a presumption that the injury, disability or death they experience is related to work place activities and is compensable through workers' compensation benefits. This is a shift in the current system in which the worker has the burden of proving that the injury, disability or death is related to work place activities. It is possible that this shift will result in the filing of additional claims for workers' compensation benefits. The OLS notes that individuals may be more likely to apply for workers' compensation benefits, particularly when the root cause of an injury or illness is at question, if there is an understanding that they do not have to bear the burden of proving the connection between their workplace activities and their injury, disability or death. However, it should be noted that these injuries, illnesses and deaths under the system for workers' compensation benefits, and shifting the burden of proof, may have little or no fiscal impact. It is not possible to quantify with any certainty the number of cases and the cost of the cases that may be filed due to the change proposed pursuant to this bill.

The OLS does not have access to independent actuarial information to analyze and determine the impact of the possibility of increased claims on workers' compensation premium calculations and total costs of claims. However, since a majority of public entities are self-insured for workers' compensation, any increases to the costs of workers' compensation will be funded directly by these entities.

Section 6 of the bill establishes that any injury, illness or death, including cancer and damage to reproductive organs, incurred by a public safety worker, which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance will be presumed to be compensated through workers' compensation, if the worker demonstrates exposure to a known carcinogen, cancer-causing radiation or radioactive substances in the course of employment. Furthermore, section 6 of the bill requires that the employer must maintain records of all public safety workers in its employ who were deployed to an area in which fire, explosions, spills or other events occurred which could result in exposure to carcinogens. The record keeping requirement is for all public entities and it is intended to assist the employer and the worker to demonstrate a connection, or lack thereof, for any injury, illness, or death for any cancer or damage to reproductive organs. The tracking of these incidents of exposure may be costly and time consuming. A public safety employer will need to ensure that the records are comprehensive and thorough in order to track exposure for workers due to the possibility of future benefit claims. The OLS cannot determine with any certainty the cost of this record keeping and impact on future workers' compensation claims.

Section 7 of the bill establishes the presumption for any firefighter, with more than seven years of service, who suffers injury, illness or death caused by cancer that this injury, illness or death is an occupational disease and the burden of proof is borne by the employer for these firefighters. Firefighters with more than seven years of experience will not have to demonstrate exposure to a known carcinogen, cancer-causing radiation or a radioactive substance. The OLS cannot determine with any certainty the impact of this change on future workers' compensation claims.

In summary, although the OLS cannot quantify the cost of this legislation to the State and local public entities, it is possible that there will be an increase in the cost of workers' compensation claims to self-insured entities and in workers' compensation premiums for those entities that purchase coverage. These increases will be due to the potentially larger number of individuals filing for workers' compensation coverage in instances in which the root cause of illness, injury or death is uncertain. There may also be an increase in costs related to record keeping requirements for public safety employers pursuant to section 6 of the bill.

Section: Commerce, Labor and Industry

*Analyst: Juan C. Rodriguez
Associate Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1741 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JULY 26, 2019

SUMMARY

- Synopsis:** “Thomas P. Canzanella Twenty First Century First Responders Protection Act”; concerns workers’ compensation for public safety workers.
- Type of Impact:** Indeterminate recurring expenditure increase.
- Agencies Affected:** All State and local public entities which utilize public safety workers.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will most likely increase annual expenditures by State and local public entities that utilize public safety workers.
- The bill will also most likely result in annual increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may result in increased claims for workers’ compensation benefits, and the requirement for public safety employers to maintain additional records.
- The OLS cannot quantify the cost of this bill to the State and local units due to uncertainty on the number of individuals who may submit claims each year and the costs of those claims. Additionally, the OLS does not have sufficient data on the costs to establish the programs and to maintain the additional records required pursuant to this bill.

BILL DESCRIPTION

The bill creates a rebuttable presumption of workers’ compensation coverage for public safety workers in certain circumstances. The public safety workers covered by the bill include paid or volunteer emergency, correctional, fire, police and medical personnel.

The bill affirms that if a public safety worker can demonstrate that in the course of his or her employment, the worker is exposed to a serious communicable disease or a biological warfare or

epidemic-related pathogen or biological toxin, all care or treatment of the worker, including services needed to ascertain whether the worker contracted the disease, shall be compensable under workers' compensation, even if the worker is found not to have contracted the disease. If the worker is found to have contracted a disease, there shall be a rebuttable presumption that any injury, disability, chronic or corollary illness or death caused by the disease is compensable under workers' compensation.

The bill affirms workers' compensation coverage for any injury, illness or death of any employee, including an employee who is not a public safety worker, arising from the administration of a vaccine related to threatened or potential bioterrorism or epidemic as part of an inoculation program in connection with the employee's employment or in connection with any governmental program or recommendation for the inoculation of workers.

The bill creates a rebuttable presumption that any condition or impairment of health of a public safety worker which may be caused by exposure to cancer-causing radiation or radioactive substances is a compensable occupational disease under workers' compensation if the worker was exposed to a carcinogen, or the cancer-causing radiation or radioactive substance, in the course of employment. Employers are required to maintain records of instances of the workers deployed where the presence of known carcinogens was indicated by documents provided to local fire or police departments under the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.) and where events occurred which could result in exposure to those carcinogens.

In the case of any firefighter with seven or more years of service, the bill creates a rebuttable presumption that, if the firefighter suffers an injury, illness or death which may be caused by cancer, the cancer is a compensable occupational disease.

The bill provides that, with respect to all of the rebuttable presumptions of coverage, employers may require workers to undergo, at employer expense, reasonable testing, evaluation and monitoring of worker health conditions relevant to determining whether exposures or other presumed causes are actually linked to the deaths, illnesses or disabilities, and further provides that the presumptions of compensability are not adversely affected by failures of employers to require testing, evaluation or monitoring.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will most likely increase annual expenditures by State and local public entities that employ or otherwise utilize public safety workers as defined by the bill. The bill will most likely result in increased costs to State and local public entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may cause increased claims for workers' compensation benefits and the requirement for public safety employers to maintain additional records.

The bill provides public safety workers, in certain cases, who incur an injury, disability or death, with a presumption that the injury, disability or death they experience is related to work place activities and is compensable through workers' compensation benefits. This is a shift in the current system in which the worker has the burden of proving that the injury, disability or death

is related to work place activities. It is possible that this shift will result in the filing of additional claims for workers' compensation benefits. The OLS notes that individuals may be more likely to apply for workers' compensation benefits, particularly when the root cause of an injury or illness is at question, if there is an understanding that they do not have to bear the burden of proving the connection between their workplace activities and their injury, disability or death. However, it should be noted that these injuries, illnesses and deaths under the system for workers' compensation benefits, and shifting the burden of proof, may have little or no fiscal impact. It is not possible to quantify with any certainty the number of cases and the cost of the cases that may be filed due to the change proposed pursuant to this bill.

The OLS does not have access to independent actuarial information to analyze and determine the impact of projected claim increases on workers' compensation premium calculations and total costs. However, since a majority of public entities are self-insured for workers' compensation, any increases to the costs of workers' compensation will be funded directly by these entities.

Section 6 of the bill establishes that any injury, illness or death, including cancer and damage to reproductive organs, incurred by a public safety worker, which may be caused by exposure to a known carcinogen, cancer-causing radiation or a radioactive substance will be presumed to be compensated through workers' compensation, if the worker demonstrates exposure and disease manifestation to a known carcinogen, cancer-causing radiation, or radioactive substances in the course of employment. Furthermore, section 6 of the bill requires that the employer must maintain records of all public safety workers in its employ who were deployed to an area in which fire, explosions, spills or other events occurred which could result in exposure to carcinogens. The record keeping requirement is for all public entities and is intended to assist the employer and the worker to demonstrate a connection, or lack thereof, for any injury, illness, or death due to cancer or damage to reproductive organs. The tracking of these incidents of exposure may be costly and time consuming. A public safety employer will need to ensure that the records are comprehensive and thorough in order to track exposure for workers due to the possibility of future benefit claims. The OLS cannot determine with any certainty the cost of this record keeping and impact on future workers' compensation claims.

Section 7 of the bill establishes the presumption for any firefighter, with more than seven years of service, who suffers injury, illness or death caused by cancer that this injury, illness or death is an occupational disease and the burden of proof is borne by the employer. Firefighters with more than seven years of experience will not have to demonstrate exposure to a known carcinogen, cancer-causing radiation or a radioactive substance. The OLS cannot determine with any certainty the impact of this change on future workers' compensation claims.

In summary, although the OLS cannot quantify the cost of this legislation to the State and local public entities, it is possible that there will be an increase in the cost of workers' compensation claims to self-insured entities and in workers' compensation premiums for those entities that purchase coverage. These increases will be due to the potentially larger number of individuals filing for workers' compensation coverage in instances in which the root cause of illness, injury or death is uncertain. There may also be an increase in costs related to record keeping requirements for public safety employers pursuant to section 6 of the bill.

Section: Commerce, Labor and Industry

Analyst: Juan C. Rodriguez
Associate Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



Governor Phil Murphy

- Home
- Administration
- Key Initiatives
- News and Events
- Social
- Contact Us

Newark, N.J.

Governor Murphy Signs Legislation to Protect First Responders, Including 9/11 Volunteers

07/08/2019

TRENTON – Today, Governor Phil Murphy signed A4882 and S716 into law, which will enhance protections for first responders, including those who volunteered for 9/11 rescue, recovery, and clean-up efforts at World Trade Center sites.

“Thousands of courageous volunteers put their lives on the line in order to save those affected by the devastation of 9/11,” said Governor Murphy. “We will never forget their selfless acts of heroism, just as we will always be grateful for the first responders who put their lives on the line for us every day. Today we send a clear message to all of our heroes: We have your back. I am proud to sign legislation that will ensure the health benefits and compensation that these incredible men and women deserve.”

A4882, also known as “the Bill Ricci World Trade Center Rescue, Recovery, and Cleanup Operations Act,” is named after Lieutenant Bill Ricci, a professional firefighter in Clifton, Passaic County, who volunteered to serve at Ground Zero after the terrorist attacks on September 11, 2001. Lieutenant Ricci was ineligible for an accidental disability retirement under previously existing law. However, through this act, members and retirees who volunteered for 9/11 rescue, recovery, or cleanup operations, like Lieutenant Ricci, will be eligible to receive accidental disability retirement. This act will also create an exception to the normal five-year filing requirement for 9/11-related operations.

S716, also known as “the Thomas P. Canzanella First Century First Responders Protection Act,” is named after Deputy Chief Thomas P. Canzanella, a former Hackensack firefighter and advocate who served at Ground Zero after 9/11. Deputy Chief Canzanella, who was an IAFF state representative, passed away from a heart attack at the age of 50. In 2016, Governor Christie absolute vetoed a previous version of this bill.

Under previously existing law, first responders and firefighters had the burden of proving causation for their illnesses, which often required a significant expense of time and resources. This new law reforms New Jersey’s workers’ compensation law to create a rebuttable presumption of coverage for public safety workers for certain illnesses. For firefighters, those with seven or more years of service who suffer an injury, illness or death caused by certain types of medical conditions would not be required to demonstrate causation or exposure before receiving medical benefits and financial compensation. Other first responders, including first-aid or rescue squad members, police, corrections officers, nurses, medical technicians, and other medical personnel, are also not required to demonstrate causation of illnesses, but are required to provide evidence of exposure.

[Back to top](#)

“The Labor Department works hard to ensure that workers receive all the benefits they are entitled to under the law, and this is especially true for our first-responders,” said New Jersey Department of Labor and Workforce Development Commissioner Robert Asaro-Angelo. “I’m proud to see that New Jersey’s brave men and women on

the front lines, who run toward danger to keep the rest of us safe, will now have access to benefits if they become sick or disabled as a result of their heroism on 9/11, and will be taken care of in any future emergency."

"I am glad that the lawmakers were able to come together on this so quickly to help us," said Lieutenant Bill Ricci, City of Clifton Firefighter. "It's great how there were changes made on the fly to help more people as they became aware of the need. Hopefully, only a few will require this legislation, but it's here now to help all that need it."

"My family is so honored and so grateful to stand here today. It's been a very long 12 years without him but to see that this work is going to help so many people is just so powerful," said Allison Canzanella, daughter of Thomas P. Canzanella. "And, I'm just so proud to be his daughter every single day. Thank you."

"Today, with the signing of the "Thomas P. Canzanella 21st Century First Responders Protection Act," Firefighters, first responders, public safety workers, and their families in New Jersey will benefit in the event of an injury, illness or death in the performance of their duties," said Dominick Marino, President of the Professional Firefighters Association of New Jersey. "On behalf of the PFANJ Executive Board, its members, and their families, I want to thank Assemblywomen Quijano and Senator Greenstein for sponsoring and working to get the "Thomas P. Canzanella 21st Century First Responders Protection Act" passed and thank Governor Murphy for signing it into law."

"The IAFF is proud to see New Jersey recognizing the dangers of occupational cancer our members encounter," said Harold Schaitberger, General President of the International Association of Fire Fighters. "The "Thomas P. Canzanella Twenty First Century First Responders Protection Act" will help care for fire fighters who are sick as a result of doing their duty of protecting their community."

"It is time that we the citizens of New Jersey protect our police and fire as they protect us. The signing of these 2 bills is a beginning of this endeavor," said Robert Fox, President of the New Jersey State Fraternal Order of Police. "I thank the Governor, the Assembly, and the Senate for their actions to get these bills signed into law."

"With the signing of these bills today, Governor Murphy and the Legislature guarantee the brave men and women who answered the call on 9/11 are not forgotten," said Pat Colligan, President of the New Jersey State Policemen's Benevolent Association. "Those officers who bravely went into harm's way and have dealt with the health consequences now have the reassurance they will be covered. I want to thank the Governor and Legislature for assuring our heroes that they are not abandoned."

"The NJFMBA thanks the Governor and Legislature for moving this important legislation and signing them in Jersey City," said Wayne Wolk, Executive Vice President of the New Jersey State Firefighters' Mutual Benevolent Association. "Seventeen years ago, our elected officials promised to never forget the sacrifices first responders made on September 11th and the weeks and months that followed. Today, our elected officials showed that here in New Jersey, they keep their promises."

"I want to thank everyone for their hard work in getting this bill passed, including the Governor, the Legislature, and most of all, the brave responders who answered the call on 9/11," said Dr. Iris Udasin, Medical Director of the World Trade Center Clinic, Rutgers' Environmental and Occupational Health Sciences Institute.

Primary sponsors of A4882, also known as, "the Bill Ricci World Trade Center Rescue, Recovery, and Cleanup Operations Act," include Assemblymembers James Kennedy, Jamel Holley, and Andrew Zwicker, and Senators Nicholas Scutari and Joseph Lagana.

"When police and firefighters in New Jersey received word that two planes had struck the World Trade Center on September 11, 2001, many of them didn't hesitate before responding to the scene, even though they were not specifically ordered to go," said Assemblyman James Kennedy. "Unfortunately, some suffered permanent or total disability. Due to the fact that they responded as volunteers, they have not been entitled to the same compensation as their counterparts who were considered to be 'on the job' that day. This law changes that."

All of the heroic men and women who responded to Ground Zero deserve our utmost respect and admiration, regardless of whether they were on the clock," said Assemblyman Jamel Holley. "They all saw the same terror, took the same risks, and worked towards the same goal. If their health has been affected in the time since, they all should be eligible for the same disability allowance."

"Our country is still feeling the effects of 9/11 today. The impact on those who were there – particularly our first responders – remains even more prevalent," said Assemblyman Andrew Zwicker. "We can go further to honor our first responders by ensuring they are recognized and compensated for their service on 9/11, voluntary or otherwise. They deserve nothing less."

"Many of these brave men and women are suffering from serious illnesses traced back to their efforts at Ground Zero," said Senator Nicholas Scutari. "This law will provide much needed financial support for these individuals whose health was drastically effected when they heroically put their country first on 9/11."

"In the aftermath of 9/11, first responders from our state displayed absolute heroism, facing fear and uncertainty head-on. Now, these brave individuals will finally be able to receive the increased benefits of accidental disability they deserve," said Senator Joseph Lagana. "This is an easy decision to make to help our resident heroes who are facing medical conditions related to the Ground Zero cleanup. Guaranteeing these benefits is the least we can do for these brave men and women."

Primary sponsors of S716, also known as, "the Thomas P. Canzanella First Century First Responders Protection Act," include Senators Linda Greenstein, Christopher Bateman, and Joseph Lagana, and Assemblymembers Anette Quijano, Daniel Benson, and Verlina Reynolds-Jackson.

"First-responders should not have to fight to receive treatment or compensation related to on-the-job exposure to toxins and pathogens," said Senator Linda Greenstein. "This law recognizes that symptoms of illnesses may not be immediate and ensures that no matter when symptoms occur, our emergency personnel are protected."

"First responders run towards danger with the sole goal of saving lives. We have already seen far too many pay a price for that heroic sacrifice. We need to ensure these heroes get the medical care they earned in the line of duty," said Senator Christopher Kip Bateman. "This law is the least we can do to thank the bravest among us for their unwavering commitment to keeping us safe."

"These workers are our first line of defense. Their jobs are not only stressful, they are dangerous," said Assemblywoman Annette Quijano. "This new law ensures that public safety workers are adequately covered if they suffer a debilitating illness or worse related to their duties at work."

"Public safety workers expose themselves to dangerous situations that could prove debilitating and even deadly," said Assemblyman Dan Benson. "Most importantly, the work can be a significant health hazard. Our workers deserve comparable coverage."

"These workers put their lives on the line for the safety of others," said Assemblywoman Verlina Reynolds-Jackson. "They should never have to question whether they will be compensated accordingly for the sacrifices that they make."

Governor Phil Murphy

Home

Administration

Governor Phil Murphy

Lt. Governor Sheila

Oliver

First Lady Tammy

Snyder Murphy

Cabinet

Boards, Commissions &

Authorities

Key Initiatives

Economy & Jobs

Education

Environment

Health

Law & Justice

Transportation

News & Events

Press Releases

Public Addresses

Social

Facebook

Twitter

Instagram

Snapchat

YouTube

Contact Us

Scheduling Requests

Contact Us

Statewide

NJ Home

Services A to Z

Departments/Agencies

FAQs

Contact Us

Privacy Notice

Legal Statement &

Disclaimers

Accessibility Statement

Internship Opportunities
Governor's Residence -
Drumthwacket

Executive Orders
Statements on
Legislation
Administration Reports
Transition Reports
Press Kits



Copyright © State of New Jersey, 1996-
Office of Governor PO Box 001
Trenton, NJ 08625
609-292-6000

powered by njoit