

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 365

PRINTER NO. 1944

AMOUNT

See Fiscal Impact

FUND

Multiple Funds

DATE INTRODUCED

February 21, 2023

PRIME SPONSOR

Senator Bartolotta

DESCRIPTION

Senate Bill 365 amends the Workers' Compensation Act to clarify the requirements for a first responder to establish a post-traumatic stress injury (PTSI) workers' compensation claim.

This legislation provides first responders with post-traumatic stress injury (PTSI) coverage. A first responder is defined as a professional or volunteer firefighter, an emergency medical services provider, a Pennsylvania State Police officer or a peace officer. The legislation defines a post-traumatic stress injury as having the same meaning given in Chapter 75A (Emergency Responder Mental Wellness and Stress Management) of Title 35 (Health and Safety).

A PTSI claim for an injury suffered by a first responder must establish that the injury was the result of exposure to a qualifying traumatic event or events and that the injury was sustained in the course and scope of employment. A qualifying traumatic event means an incident or exposure:

- Resulting in serious bodily injury or death to any person or persons;
- Involving a minor who has been injured, killed, abused or exploited;
- Involving an immediate threat to the life of the claimant or another individual;
- Involving mass casualties; or
- Responding to crime scenes for investigations.

Workers' compensation benefits for a post-traumatic stress injury shall be available for a period of not more than 104 weeks. Senate Bill 365 stipulates that PTSI suffered by a first responder need not be the result of an abnormal working condition to be a compensable injury under this act.

This bill requires that the PTSI be based on an examination and diagnosis by a licensed psychologist or psychiatrist. A claim must be filed within three years of the date of diagnosis, and the injury must not have occurred more than five years prior to the effective date of this legislation. A PTSI diagnosed after the last date of employment shall not prohibit a claim, and PTSI resulting from an employment action, including disciplinary action, job or performance evaluation, job transfers or employment termination shall not be compensable.

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The legislation stipulates that this amendment to the Workers’ Compensation Act applies only to claims filed on or after the effective date, and the relevant sections related to PTSI claims take effect in one year. The remainder of this act takes effect immediately.

FISCAL IMPACT:

The Office of Administration (OA) is anticipating increased workers’ compensation costs to the Pennsylvania State Police, Fish and Boat Commission, Game Commission, Office of Attorney General and Capitol Police. OA is unable to estimate exact costs to the affected agencies but anticipates the volume of claims to be 12-15 in the first year and five per year in subsequent years. The table below presents the average wage replacement benefit a department could anticipate for each PTSI claim, up to the maximum 104-week period.

	Average Salary	6 Months	12 Months	18 Months	24 Months
State Police	\$99,000	\$49,500	\$99,000	\$148,500	\$198,000
Other Commonwealth Law Enforcement Agencies	\$62,000	\$31,000	\$62,000	\$93,000	\$124,000

As a self-insured entity, the Commonwealth will also pay for the medical and therapeutic treatment costs related to employees’ PTSI claims. Agencies may also incur, to the extent necessary, additional overtime or salary and benefit costs to replace the hours that would have been worked by claimants.

Local governments will also incur increased workers’ compensation costs. There are 806 full-time police departments, 90 part-time police departments, 33 paid fire companies, 117 paid and volunteer fire companies, 1,679 volunteer fire companies and 1,259 emergency medical services agencies that will now provide PTSI coverage to first responders. The State Workers’ Insurance Fund (SWIF), private insurance and local trusts provide insurance coverage to these entities. SWIF is the provider of last resort and will provide coverage to any entities that are unsuccessful in obtaining or retaining coverage in the private market or that are not self-insured. Insurance costs may increase as a result of expanded PTSI coverage. In addition, local government agencies may experience increased costs due to additional overtime or salary and benefit costs to replace hours worked.