Legislation Text

File #: 2021-0527, **Version:** 1

To: Board of Supervisors of the County of Sonoma
Department or Agency Name(s): Human Resources
Staff Name and Phone Number: Lynne Durrell 707-565-6089, Janell Crane 707-565-2885
Vote Requirement: Majority
Supervisorial District(s): Countywide

Title:
Workers' Compensation Coverage for Peace Officers under Assembly Bill 1749

Recommended Action:

A) Adopt a Resolution that extends workers' compensation coverage for off-duty peace officers as defined by Government Code Section 50920 for injuries sustained in the performance of law enforcement activities outside of the employer's immediate direction, within the United States, under the following limited circumstances:
   i. An act of terrorism as defined in Section 2331 of Title 18 of the United States Code
   ii. An active shooter situation or other incident likely to cause multiple casualties
   iii. A catastrophic event such as an earthquake or flood requiring local law enforcement deployment

Executive Summary:
Previously, California Labor Code Section 3600.2(a) provided workers' compensation coverage for injuries sustained within California, even if the injury occurs when they are off duty and outside of their employer's direction.

Assembly Bill 1749, introduced during the 2018 legislative session, modified Labor Code Section 3600.2 to allow but not mandate workers' compensation coverage outside the State of California. This legislation was in direct response to the October 2017 Las Vegas Route 91 Harvest Festival (aka Vegas Shooting) and the desire to allow local jurisdictions to cover the peace officers who assisted in the protection of life and property during the mass shooting Las Vegas or similar incidents in the future.

AB 1749 applies only to peace officers in good standing as defined under Government Code Section 50920, which includes the following County job classifications: Sheriff Deputy I/II, Sheriff's Sergeant, Sheriff's Lieutenant, Sheriff's Captain, Assistant Sheriff, and Sheriff.

Human Resources recommends the Board voluntarily extend to County Peace Officers, workers' compensation coverage for off-duty peace officers when the injuries sustained are the direct result of performing voluntary law enforcement activities within the United States under the above stated, limited circumstances.

Discussion:
In October 2017, at the Las Vegas Route 91 Harvest Festival, a gunman opened fire on a crowd of concert

goers and innocent bystanders. A number of law enforcement and emergency personnel from California were in attendance at the event. When the shooting started, a number of these individuals took immediate action to help assist and in some cases, save members of the public. Some of these individuals were injured as a result of their actions.

At the time, California Labor Code Section 3600.2(a) allowed for peace officers to file for worker's compensation coverage for injuries sustained within California, even if the injury occurs when they are off duty and outside of their employer's direction. Injuries sustained under similar circumstances outside of the State of California were not covered.

As a direct result of what happened at the Las Vegas Route 91 Harvest Festival, Assembly Bill 1749 was adopted during the 2018 legislative session. The bill modifies the language of California Labor Code 3600.2 (Attachment A). The revision allows consideration of workers' compensation claims for injuries sustained by peace officers, while responding to emergencies outside of California. The law does not require employers to extend workers' compensation benefits, or accept claims. The law only provides employers with the ability to extend workers' compensation coverage to an out of state incident. Employees injured under qualifying circumstances would covered for workers' compensation claims.

Employee claims will still be subject to the normal claim review process for determining acceptance/denial of a claim. This recommendation is based on what is generally being considered/adopted by other public agencies throughout California.

CSAC Excess Insurance Authority Endorsement No. U-6 (Attachment B)

Currently, the County is self-insured for workers' compensation for the first $300,000 and purchases excess coverage through PRISM (formerly CSAC-Excess Insurance Authority) beyond that, up to statutory limits.

In response to AB1749, the PRISM Board of Directors adopted an Endorsement to the Excess Workers' Compensation Memorandum of Coverage which excludes coverage for bodily injury or occupational disease sustained by a peace officer who was off duty, not acting under the direction of his or her employer, and was outside the state of California. However, if prior to the occurrence, the Governing Board of the entity adopts a resolution accepting liability for such injuries and the peace officer was engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or preservation of the peace, the exclusion shall **not apply.**

Although the Board can choose to extend coverage following a future event, if the County Board does not adopt a resolution, the County will not be eligible for reimbursement of costs in excess of the self-insured retention.

The County met and conferred with the Deputy Sheriff Association (DSA) and Deputy Sheriff Law Enforcement Management (DSLEM) unions, and reached agreement over the recommended terms of the coverage reflected in proposed Resolution before the Board.

Due to the specialized training of peace officers, their sworn duty to protect the public, and for the good of the public at large, Human Resources recommends adopting a resolution that extends coverage for workers'

compensation claims for off-duty peace officers when the injuries are the direct result of performing voluntary law enforcement activities within the United States and occur under limited circumstance.

Prior Board Actions:
None.

FISCAL SUMMARY

Expenditures	**FY 20-21 Adopted**	**FY21-22 Projected**	**FY 22-23 Projected**
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:
Extension of coverage under AB1749 has the potential to impact future excess insurance rates, however, rates are based on past claims experience. Therefore, potential future impacts depend on the number of incidents and the associated costs of those claims.

Staffing Impacts:			
Position Title (Payroll Classification)	**Monthly Salary Range (A-I Step)**	**Additions (Number)**	**Deletions (Number)**

Narrative Explanation of Staffing Impacts (If Required):
None.

Attachments:
Proposed Resolution:
Attachment A: California Labor Code 3600.2, amended by AB1749
Attachment B: CSAC Excess Insurance Authority Endorsement No. U-6

Related Items "On File" with the Clerk of the Board:

None.

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