



City Council Agenda Item

City Council Meeting Date: June 18, 2019

TO: Jim Throop, City Manager

FROM: Gabriel Garcia, Human Resources Manager
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SUBJECT: Workers' Compensation Coverage for Injuries Sustained by Peace Officers While Off Duty; Adoption of Resolution No. 6262(19)

Recommendation:

Staff recommends the City Council:

- 1) Incorporate Endorsement U-6 to the Excess Workers' Compensation Memorandum of Coverage (MOC); and
- 2) Adopt Resolution No. 626219) (attached); or
- 3) Provide alternate direction.

Background:

Assembly Bill 1749 (AB 1749) was introduced during the 2018 legislative session to address concerns that workers' compensation claims filed by off duty California peace officers injured at the October 2017 Las Vegas Route 91 Harvest Festival shooting were being denied because they were out of state at the time. Governor Jerry Brown signed the bill into law with an effective date of January 1, 2019. While California Labor Code Section 3600.2(a) provides workers' compensation coverage for injuries sustained by off duty peace officers within the State, it did not address injuries sustained outside of the State. AB 1749 created a new addition at Labor Code Section 3600.2(b)(4), which provides the following:

(b) Nothing in this section shall be deemed to:

(4) Preclude an employer, at its discretion or in accordance with written policies adopted by resolution of the employer's governing body, from accepting liability for compensation under this division for an injury sustained by a peace officer, as defined in Section 50920 of the Government Code, by reason of engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the

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peace, outside the state of California, but who was not at the time acting under the immediate direction of his or her employer, including any claims for injuries sustained by peace officers during the October 1, 2017, mass shooting in Las Vegas, Nevada, if the employer determines that providing compensation serves the public purposes of the employer. For claims filed pursuant to this paragraph by peace officers for injuries sustained during the October 1, 2017, mass shooting in Las Vegas, Nevada, the date of injury for purposes of subdivision (a) of Section 5405 shall be deemed the operative date of the act adding this paragraph. Acceptance of liability under this subdivision shall not affect the determination of whether or not the peace officer acted within the scope of his or her employment for any other purpose.

Discussion:

The Labor Code amendment allows an entity to decide whether to accept a workers' compensation claim filed by a peace officer who, while out-of-state, is injured while engaging in apprehension or attempted apprehension of law violators, or suspected law violators, or in protection or preservation of life or property, or in the preservation of the peace. An employer entity can choose to accept compensability and provide benefits:

- *At its discretion* or in *accordance with a resolution*, as long as the employer decides that providing compensation serves the public purposes of the employer;
- The entity can also determine whether to make such coverage retroactive to individuals injured during the Harvest Festival mass shooting.

Proposed Endorsement U-6

CSAC-EIA, the City's excess insurer, has created proposed Endorsement U-6 (Attachment 1) based on input from the EIA's Underwriting and Executive Committees. The endorsement will provide coverage under the MOC for injuries to off-duty peace officers while outside the State of California when that officer is not acting under the immediate direction of his or her employer **only if:**

- 1) The peace officer was engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or in protection or preservation of life or property, or the preservation of the peace; **and**
- 2) Prior to the occurrence, the Governing Board of the member has adopted a resolution as provided for in California Labor Code subdivision 3600.2(b)(4), accepting liability for such injury.

Fiscal Impact:

There is no fiscal impact to adopting Endorsement U-6 and Resolution No. 6262(19). Incidents that qualify for extended coverage will be rare. If Endorsement U-6 and Resolution No. 6262(19) are not adopted, then any injury sustained by off duty Lompoc

peace officers, while out of the State, will not be afforded coverage, even if the actions are deemed qualified.

Conclusion:

Adoption of Resolution No. 6262(19), will allow coverage, according to California Labor Code Section 3600.2(a), for qualified injuries to off-duty Lompoc peace officers even if they are outside the State when the injuries are sustained.

Respectfully submitted,

Gabriel Garcia, Human Resources Manager

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Jim Throop, City Manager

Attachment: Resolution No. 6262(19)