



March 23, 2021

The Honorable Robert Rivas
California State Assembly
State Capitol, Room 5158
Sacramento, CA 95814

Subject: AB 415 (Rivas) Workers' Compensation Cancer Presumption Expansion - OPPOSE

Dear Assemblymember Rivas:

The undersigned organizations are respectfully **OPPOSED** to your **AB 415**, which would expand existing cancer presumptions for front line firefighters to also cover employees for local public agencies that, while not directly engaged in firefighting activities, are exposed to health hazards from firefighting operations. We are opposed to this bill because there is no objective basis to support the proposed expansion and the bill is crafted with vague language that, we believe, would cause it to be broadly applicable to municipal employees.

No Objective Basis for Expansion

Nearly identical language in AB 1400 (Kamlager-Dove, 2019), was rejected because there was a complete lack of objective information supporting the need for the change in policy or that a problem even exists. That legislation was amended into a requirement for the Commission on Health and Safety and Workers' Compensation (CHSWC) to study the "risk of exposure to carcinogenic materials and incidence of occupational cancer in mechanics who repair and clean firefighting vehicles.

This research, although due to the legislature on January 1, 2021, has not yet been completed or delivered and is not available to stakeholders for evaluation. **We believe that AB 415 is premature and remains unsupported by objective evidence.**

Scope of AB 415 Beyond Pending Research

The language used in AB 415 is poorly defined and would result in a scope that is significantly more expansive than the research described in AB 1400. The language in AB 415 would apply the presumption to "employees of a city, county, district, or other municipal corporation or political subdivision" if their job duties cause them to be "regularly exposed to active fires or health hazards directly resulting from firefighting operations, such as exposure to toxic chemicals deposited on firefighting equipment."

The scope of this bill includes any municipal employee - not just those who work for fire departments and are in close proximity to actual firefighting operations. This could apply to any employee who works outdoors when smoke from wildfires descends over large parts of the state because of how the bill is drafted. There is no definition or explanation of what it means to be "regularly exposed", nor any correlation to an exposure being greater than the general public during a wildfire. Labor Code Section 3202 requires the workers' compensation laws of California to be "liberally construed by the courts with the purpose of extending their benefits for the

protection of person injured in the course of their employment.” This means that loosely crafted language such as that in AB 415 will be interpreted to be maximally applicable. Even if the research required by AB 1400 is completed and submitted to the legislature it is not likely – based on the scope of research described in the bill – that it will provide any sort of justification for the policy contained in AB 415.

Focus on Safety

When we opposed AB 1400, we offered, in writing, to sit down with stakeholders and focus on workplace safety and preventative measures in an effort to better protect workers. We continue to be willing to partner with you and stakeholders on conversations about workplace safety. For example, the National Fire Protection Association has established standards (NFPA 1851) on care and maintenance of fire equipment, including trucks and clothing. This is in addition to CalOSHA’s requirements for safety and proper equipment when working with known carcinogens. We believe those channels provide a better route to address any concerns, considering that it would focus on prevention of disease. Curiously, we have never been contacted by the proponents to discuss potential new safety measures.

Presumptions Should be Limited

California’s workers’ compensation system was established to treat workplace injuries. When the legislature establishes a presumption, as is proposed by AB 415, it essentially deprives employers of the ability to effectively refute that a claim is connected to work. The law says that presumptions are rebuttable, but they are functionally not so. To overcome the presumption established by AB 415 an employer would have to prove with medical evidence that the cancer was not caused by work. If the law was unchanged an injured worker would face a far more manageable standard for establishing their illness as work related.

This is not how medical science works- an employer cannot prove a negative. The net result of this legislation will be that public agencies with limited budgets and a high demand for vital public services will be forced to divert funding to provide extraordinarily expensive workers’ compensation benefits (medical, lost wages, permanent disability, death benefits) and disability retirement benefits to people who did not develop cancer as a result of their employment and have generous benefits available in their employer- funded health insurance. There is an utter lack of objective evidence to support the changes proposed in this policy.

For these reasons, we respectfully **OPPOSE AB 415**.

Sincerely,



Jason Schmelzer
California Coalition on Workers’ Compensation



Jen Hamlin
Public Risk Innovation, Solutions, And Management
(PRISM)



Faith Borges
California Association of Joint Powers Authorities



Bijan Mehryar
League of California Cities



Ryan Souza
California State Association of Counties



Jeremy Merz
American Property Casualty Insurance Association

Cc: Members, Assembly Insurance
DIR Director Katie Hagen
Governor’s Legislative Unit