

California labor, business groups in fierce battle over coronavirus workers' comp change



BY KATY MURPHY | 04/20/2020 11:43 PM EDT



Gov. Gavin Newsom | AP Photo/Rich Pedroncelli

SACRAMENTO — Labor and business leaders in California are furiously lobbying the governor's office over a sweeping change the administration is said to be considering to the state workers' compensation system for health care workers and others on the front lines of the Covid-19 pandemic.

Gov. Gavin Newsom's office did not provide a response Monday nor confirm that a proposal is in the works. But those familiar with the discussions, as well as letters sent to the governor in recent weeks by high-profile groups, suggest the change would create a presumption that certain "essential workers" who contract the disease were exposed on the job — and, therefore, entitled to workers' compensation benefits.

Such a shift could cost employers between [\\$2.2 billion and \\$33.6 billion per year](#), the Workers' Compensation Insurance Rating Bureau of California estimated on Monday. The bureau's mid-

range estimate of \$11.2 billion amounted to 61 percent of the system's typical costs per year.

A bill amended in the state Senate last week would have a similar effect, though possibly with fewer types of workers. [CA AB664 \(19R\)](#) would extend to "certain state and local firefighting personnel, peace officers, certain hospital employees, and certain fire and rescue services coordinators." Assemblymembers Jim Cooper (D-Elk Grove), a former Sacramento County Sheriff's Department captain, and labor champion Lorena Gonzalez (D-San Diego) are its main authors.

Workers exposed to Covid-19 can file workers' compensation claims today, but it is up to them to show that they contracted the disease on the job. The proposal in question would shift that burden to the employers — to prove that the worker did not get sick because of exposure at work.

Business leaders argue that shift could strain the system and cost employers billions of dollars in increased premiums at a time when many are laying off workers and trying to stay afloat.

"Many businesses and their owners are casualties of the necessary economic shutdown," wrote California Chamber of Commerce President Allan Zaremberg to Newsom and his staff in a letter dated April 7. "They cannot be expected to shoulder a new employer-financed social safety net, with expensive new mandates, at precisely the moment when small businesses are shuttering, employee hours are cut, and uncertainty about the future is the new normal."

In a statement Monday, CalChamber pointed to the new cost estimate and noted that the association had expressed concern to Newsom about "an overly broad executive order because it would create an enormous and unnecessary burden on the worker's compensation system."

But a prominent labor leader has argued that it is the right thing for the state to do.

"Workers on the frontlines of the COVID-19 pandemic put their lives at risk just doing their jobs," wrote Art Pulaski, head of the California Labor Federation, in a late March letter to Newsom. "If they are infected with COVID-19, the workers' compensation system must quickly provide medical and indemnity benefits — such workers should not have to fight denials and delays while fighting for their lives."

Workers' compensation insurance provides benefits to employees who become ill or are injured on the job. The benefits include medical care, temporary payments for lost wages during recovery and payments to dependent family members if the employee dies as a result of the injury or illness.

On March 12, Newsom issued an executive order stating that employees may be eligible for workers' compensation benefits if they were exposed to or contracted Covid-19 at work. And earlier this month, Insurance Commissioner Ricardo Lara alerted insurance companies and employers that all workers, regardless of their immigration status, are eligible for such benefits.

Sean Walsh, who runs a consulting firm with former Gov. Pete Wilson and was a senior policy adviser to former Gov. Arnold Schwarzenegger, said he had briefings from four business groups on Monday about an executive order Newsom is contemplating that would alter the workers' compensation system for those affected by the pandemic.

"This goes at the heart of economic recovery; if you drain a workers' compensation fund, the costs going back to small and medium-size businesses, it could be a deal breaker for them hiring these folks back into the workforce," Walsh said. " ... These folks, once we start lifting the lockdown, they have decisions to make: how many employees are they going to bring back into the workplace?"

Michael Duff, a law professor at the University of Wyoming who teaches on the subject, said workers' comp systems have long contained such "presumptions" for diseases that are common in certain occupations, such as lung cancer for coal miners or firefighters. Now, he said, numerous states have made or are considering a similar treatment for Covid-19.

The shift would almost certainly hike the cost of workers' compensation insurance policies, he said, which are mandatory in California and in most other states. But, he said, "We're in a situation where it's very difficult to say what the risk is."

Debra Kahn contributed to this report.

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