

California poised to expand Covid-19 presumption for essential workers

By Katy Murphy

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SACRAMENTO — California is on the cusp of easing the path to workers' compensation benefits for police officers, firefighters, medical personnel and other frontline workers who contract Covid-19 — as well as employees at any workplace with an outbreak.

[CA SB1159 \(19R\)](#) — the only workers' comp proposal the Legislature approved on its final day of session — would take effect immediately if signed into law, lifting the requirement that those workers prove that they were exposed on the job. It would sunset in 2023.

"Covid-19 has ravaged our state. The scale of human suffering is unprecedented and difficult to overstate," said the bill's author, Sen. Jerry Hill (D-San Mateo), who described the proposal to his colleagues as "a common sense solution to ensure that California addresses high-risk Covid-19 occupational settings fairly and evenly."

The debate over how to treat Covid-19 workers' compensation claims — which cover wage replacement as well as medical costs and death benefits — has [played out across the country](#) since the early days of the pandemic. [More than a dozen states](#), from Wyoming to Illinois, have begun treating Covid-19 as a work-related illness for certain employees, according to the National Council on State Legislatures.

In California and elsewhere, policymakers have wrestled with how to balance the needs of workers and employers and which occupations warrant easing of the typical requirements. Private employers worry the changes will drive up insurance costs, while cities, counties and large school districts fear a blow to their budgets, which have already taken a hit during the pandemic. Public entities are often self-insured, which means they set aside revenue for expected payouts.

Workers' advocates note the nature of the disease and its community spread make it hard to prove the exposure happened at work. Essential workers are keeping the supply chain and health care system running as others work from the relative safety of their homes, they argue, and should not be saddled with medical costs or lost wages if they become ill with Covid-19.

Newsom is expected to sign SB 1159. He issued a temporary [executive order on workers' compensation and Covid-19](#) in May after labor leaders had urged him to do so and has strong labor advocates in his cabinet, including Angie Wei, formerly of the California Labor Federation. His office was involved in discussions about the bill while it was in the Legislature, according to a statement from Hill.

But the governor is undoubtedly hearing from opponents as well.

The Workers' Compensation Action Network, which includes public and private employers, says that more than 25,000 Covid-19 claims have been accepted thus far in California, costing a projected \$2 billion-plus for businesses and public agencies. It has maintained that the vast majority of such claims are accepted and that there is no need to change the system by adding the "presumption" that an employee was exposed at work.

Opponents of SB 1159 take particular issue with a provision that applies a similar standard to any workplace that has experienced an outbreak, defined as four positive cases at a location — or in organizations with more than 100 employees, 4 percent — in a two-week period. To document outbreaks, employers are required to track and report positive cases or face penalties, which the group called administratively burdensome.

"These bills just make bad matters terribly worse," said John Kabateck, state director for the National Federation of Independent Business.

A massive coalition of employers that included school districts, local governments and industry trade groups fought all three workers' comp proposals until the clock ran out on California's legislative session. The lobbying blitz apparently helped defeat two of them: [CA AB196 \(19R\)](#) by Assemblymember Lorena Gonzalez (D-San Diego), which would have applied to all essential workers called into work during the pandemic, and [CA AB664 \(19R\)](#) by Assemblymember Jim Cooper (D-Elk Grove).

AB 664 would have applied to a similar group of workers as SB 1159, but unlike Hill's proposal did not require claimants to first exhaust other Covid-19 leave or wage-replacement benefits or to recertify their temporary disability.

Neither bill received a vote on the final day of session.

"In the end, employers are satisfied that lawmakers rejected more extreme proposals, which would have imposed broad new liability on struggling California employers to pay for COVID-19 cases that are unrelated to work," the opposing coalition said in a statement. "Such proposals risked turning the workers' compensation system into a broad social safety net for the pandemic, a responsibility that should be reserved for government, not California employers grappling with an economic crisis."

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