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 DIGEST

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SB 107 Reengrossed

2019 Regular Session

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Present law declares that the services provided by volunteer fire departments are vital for fire prevention and suppression to the safety of the citizens of the state. Present law requires the state fire marshal obtain workers' compensation coverage for volunteer members who participate in the normal functions of the fire company.

Proposed law retains present law but requires that, upon the purchase of a new policy or renewal of an existing policy, that any workers' compensation policy which provides coverage for a volunteer member of a fire company, pursuant to present law, will include coverage for posttraumatic stress injury.

Proposed law provides that the following definitions shall apply to any workers' compensation policy which provides coverage for a volunteer member of a fire company:

- (1) "Posttraumatic stress injury" means those injuries which are defined as "posttraumatic stress injury" by the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association caused by an event occurring in the course and scope of employment and which the preponderance of evidence indicates that the event was a substantial contributing factor.
- (2) "Psychiatrist" shall have the same meaning as it is defined pursuant to present law.
- (3) "Psychologist" shall have the same meaning as it is defined pursuant to present law.
- (4) "Volunteer member" shall have the same meaning as it is defined pursuant to present law.
- (5) "Volunteer service" means that service performed by a volunteer member, for one or more fire companies, who is entitled to workers' compensation benefits pursuant to present law.

Proposed law provides that any volunteer member of a fire company who is diagnosed by a psychiatrist or psychologist with posttraumatic stress injury, either during his period of voluntary service or thereafter, shall be presumed, prima facie, to have a disease or infirmity connected with his volunteer service.

Proposed law provides that, once diagnosed with posttraumatic stress injury as provided for in proposed law, the volunteer member affected or his survivors shall be entitled to all rights and benefits as granted by present law to one suffering from an occupational disease is entitled as service connected in the line of duty, regardless of whether he is engaged in volunteer service at the time of diagnosis.

Proposed law provides that, except as provided in proposed law, any benefit payable to any local emergency medical services personnel, any employee of a local police department, or any local fire employee for temporary and permanent disability when the employee suffers an injury or disease arising out of and in the course and scope of their employment, shall include coverage for posttraumatic stress injury.

Proposed law defines "fire employee" as any person employed in the fire department of any municipality, parish, or fire protection district that maintains full-time regularly paid fire department employment, regardless of the specific duties of such person within the fire department. "Fire employee" also includes employees of nonprofit corporations under contract with a fire protection district or other political subdivision to provide fire protection

services, including operators of the fire-alarm system when such operators are members of the regularly constituted fire department."

Proposed law provides that the following definitions shall apply to posttraumatic stress injury benefits payable to a local emergency medical services personnel, any employee of a local police department, or any local fire employee:

- (1) "Posttraumatic stress injury" means those injuries which are defined as "posttraumatic stress injury" by the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association caused by an event occurring in the course and scope of employment and which the preponderance of evidence indicates that the event was a substantial contributing factor..
- (2) "Psychiatrist" shall have the same meaning as it is defined pursuant to present law.
- (3) "Psychologist" shall have the same meaning as it is defined pursuant to present law.

Proposed law provides that, except as provided in proposed law, any local emergency medical services personnel, any employee of a local police department, or any local fire employee who is diagnosed by a psychiatrist or psychologist with posttraumatic stress injury, either during employment or thereafter, shall be presumed, prima facie, to have a disease or infirmity connected with his employment.

Proposed law provides that, once diagnosed with posttraumatic stress injury any local emergency medical services personnel, any employee of a local police department, or any local fire employee affected or his survivors will be entitled to all rights and benefits as granted by state law to one suffering an occupational disease and is entitled as service connected in the line of duty, regardless of whether the employee is employed at the time of diagnosis.

Proposed law provides that in case of any conflict between provisions of proposed law and any retirement law then retirement law provisions control.

Present law provides that every employee of the division of state police, except the head thereof, shall be considered an employee of the state within the meaning of the workers' compensation law of this state and entitled to the benefits of all the provisions of that law applicable to state employees.

Proposed law retains present law but adds that any purchase of a new policy of renewal of an existing workers' compensation policy which provides coverage for an employee of the division of state police, pursuant to present law, shall include coverage for posttraumatic stress injury.

Proposed law provides that the following definitions shall apply to benefits payable to an employee of the division of state police:

- (1) "Posttraumatic stress injury" means those injuries which are defined as "posttraumatic stress injury" by the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association caused by an event occurring in the course and scope of employment and which the preponderance of evidence indicates that the event was a substantial contributing factor..
- (2) "Psychiatrist" shall have the same meaning as it is defined pursuant to present law.
- (3) "Psychologist" shall have the same meaning as it is defined pursuant to present law.

Proposed law provides that an employee of the division of state police who is diagnosed by a psychiatrist or psychologist with posttraumatic stress injury, either during employment or thereafter, shall be presumed, prima facie, to have a disease or infirmity connected with his employment for purposes of workers' compensation benefits.

Proposed law provides that, once diagnosed with posttraumatic stress injury the employee of the division of state police affected or his survivors shall be entitled to all rights and benefits as granted by state workers' compensation law to which one suffering an occupational disease and is entitled as service connected in the line of duty, regardless of whether the employee is employed at the time of diagnosis.

Proposed law shall not modify the qualifications necessary to establish eligibility to receive benefits or the calculation of benefits to be paid under any Louisiana public pension or retirement system, plan, or funds.

Proposed law provides that in case of any conflict between provisions of proposed law and any retirement law then the retirement law provisions control.

Proposed law provides that a posttraumatic stress injury that arises solely from a legitimate personnel action such as a transfer, promotion, demotion, or termination, is not a compensable injury pursuant to present law.

Effective August 1, 2019.

(Amends R.S. 40:1374; adds R.S. 23:1036.1, and R.S. 33:2581.2)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Labor and Industrial Relations to the original bill

1. Adds employees of nonprofit corporations under contract with a fire protection district to the definition of "fire employee".

##### Senate Floor Amendments to engrossed bill

1. Makes technical changes.
2. Clarifies that the proposed law shall not modify the qualifications necessary to establish eligibility to receive benefits or the calculation of benefits to be paid under any Louisiana public pension or retirement system, plan, or funds.
3. Removes provisions applicable to sheriffs and deputy sheriffs.

#### Summary of Amendments Adopted by House

##### The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the reengrossed bill:

1. Make technical changes.
2. Specify that the posttraumatic stress injury shall be caused by an event occurring in the course and scope of employment and which the preponderance of evidence indicates that the event was a substantial contributing factor.
3. Remove the determination and factors of whether the evidence presented to determine if an employee has a posttraumatic stress injury has successfully rebutted the presumptions provided for posttraumatic stress injury.
4. Add that a posttraumatic stress injury that arises solely from a legitimate personnel action such as a transfer, promotion, demotion, or termination, is not a compensable injury under present law.