

Adopted: 1/21/93

PARAMETERS & GUIDELINES
Chapter 1171, Statutes of 1989
Cancer Presumption-Peace Officers

I. SUMMARY OF MANDATE

Chapter 1171, Statutes of 1989, amended Section 3212.1 of the Labor Code to add "peace officers as defined in Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code who are primarily engaged in active law enforcement activities" to the category of public employees that are covered by its provisions. Previously, the provisions only applied to public sector fire fighting personnel. This section states that cancer that has developed or manifested itself in peace officers will be presumed to have arisen out of and in the course of employment, unless the presumption is controverted by other evidence. The presumption is extended to a peace officer following termination of service for a period of three calendar months for each year of requisite service, but not to exceed sixty (60) months in any circumstance, commencing with the last date actually worked in the specified capacity.

II. COMMISSION ON STATE MANDATES' DECISION

On July 23, 1992, the Commission on State Mandates determined that local law enforcement agencies will incur "cost mandated by the state" as a result of Chapter 1171, Statutes of 1989.

III. ELIGIBLE CLAIMANTS

Any law enforcement department or office of a city, county, a city and county, a special district or school district of the state which employs peace officers as defined in Sections 830.1 and 830.2 of the Penal Code and incurs increased cost as a result of this statute.

IV. PERIOD OF CLAIM

Chapter 1171/89 became effective on September 30, 1989. Section 17557 of the Government Code provides that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that fiscal year. The test claim for Chapter 1171/89 was initially filed on December 30, 1991., therefore the reimbursable costs

to the local agencies are all such permitted costs incurred on or after July 1, 1990.

V. FORMULA FOR DETERMINATION OF CASES SUBJECT TO REIMBURSEMENT

Reimbursement requires a demonstration of elements as follows:

- A. A **claim** under Chapter 1171, Statutes of 1989 is reimbursable if:
1. The worker is a peace officer within the meaning of Penal Code Section 830.1 and subdivision (a) of Section 830.2 of the Penal Code who are primarily engaged in active law enforcement activities;
 2. The worker has cancer which has caused the disability;
 3. The **worker's** cancer developed or manifested itself during a period while the worker was in the service of the employer, or within the extended period provided or in Labor Code Section 3212.1;
 4. The worker was exposed, while in the service of the employer, to one or more known carcinogens as defined by the International Agency for Research on **Cancer**, or the Director of the Department of Industrial Relations; and
 5. The one or more carcinogens to which the worker was exposed are reasonably linked to the disabling cancer, as demonstrated by competent medical evidence.

VI. REIMBURSABLE COSTS

A case meeting all the above five conditions is eligible for reimbursement at fifty percent (50%) of the reimbursable costs defined below.

A. Insured Local Agencies

If an insured local entity (insured through State Compensation Insurance Fund) incurred any increased costs as a result of Chapter **1171/89**, they would be entitled to seek reimbursement for such costs which are specifically attributable to Labor Code Section 3212.1.

If the local entity can show that its experience modification premium was increased or its dividends were decreased, 50% of those respective increases or decreases will be reimbursed.

B. Local Agencies Covered by a Joint Powers Agreement or Other Carrier

Local agencies covered by a joint powers agreement or other insurance carrier for workers' compensation may claim in the same manner as above for insured local agencies provided;

- (1) Insurance premiums or contributions are based on the Workers' Compensation Insurance Rating Bureau rates and the current loss experience modification factor, and
- (2) The insurer is responsible for claims of terminated or withdrawn local agencies if such claims arose while insured by the insurer.

C. Self-Insured Local Agencies

All actual costs of a claim based upon the presumption set forth in Labor Code Section 3212.1 are reimbursable, including but not limited to the following:

(1) Administrative Costs

(a) Staff Costs

- . Salaries and employee benefits
- . Costs of supplies
- . Legal counsel costs
- . Clerical support
- . Normal local rates of reimbursement for necessary and reasonable travel and related expenses for staff
- . Amounts paid to adjusting agencies

(b) Overhead Costs

Counties, cities and special district may claim indirect cost through an indirect cost rate proposal prepared in accordance with the provision of the Office of Management and Budget Circular No. A-87, "**Cost Principles for Grants to State and Local Governments**" as a percentage of direct salaries and wages. Indirect costs may include costs of

space, equipment, utilities, insurance, administration, etc. (i.e., those elements of indirect costs incurred as the result of the mandate originating in the performing unit and the costs of central government services distributed through the central services cost services cost allocation plan and not otherwise treated as direct costs). Computation of the indirect cost rate must accompany the claim showing how the rate was derived.

(2) Benefit Costs

Actual benefit costs under this presumption shall be reimbursable and shall include, but are not limited to:

- Permanent disability benefits
- Death benefits
- Temporary disability benefits or full salary in lieu of temporary disability benefits as required by Labor Code Section 4850, or other local charter provision or ordinance in existence on January 1, 1990. Provided, however, that salary in lieu of temporary disability benefits were payable under local charter provision or ordinance shall be reimbursable only to the extent that those benefits do not exceed the benefits required by Labor Code Section 4850.

VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the cost claimed. Such offsetting savings shall include, but not be limited to, savings in the cost of personnel, service or supplies, or increased revenues obtained by the claimant. In addition, reimbursements received from any source (e.g., federal, state, etc.) for this mandate shall be identified and deducted from the claim.

VIII. CLAIMING FORMS AND INSTRUCTIONS

Supporting Data

For auditing purposes, all costs claimed must be traceable to source documents or worksheets that **sho**· evidence of the validity of such costs. These documents must be kept on file and made available on the request of the State Controller.

Required Certification

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT **I** am the person authorized by the local agency to file claims with the State of California.

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