

City of Sacramento
State Legislature



BILL REFERRAL

DATE: 4/1/93 COMMITTEE ACTION: _____

TO: Law and Legislation Committee DATE: 4/20/93

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

REPLY NO LATER THAN: _____

A.B. 428 As Amended _____ * Author: Burton

S.B. _____, As Amended _____ * Author: _____

*Date of introduction or latest amendment.

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact Ken Emanuels at 444-6789, FAX 444-0303 (1400 K Street, Suite 306, Sacramento, CA 95814). This questionnaire should be returned to the City Attorney's office for presentation to the Council Committee on Law and Legislation. PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.

NO RECOMMENDATION. If you think no Committee action on this bill should be taken, either because the bill is not of sufficient importance to the City or for any other reason, please mark here, do not fill out the rest of the form, and return this form to the City Attorney's Office. _____

PLEASE TYPE YOUR RESPONSE

1. Briefly describe the provisions of the bill (attach additional sheets if necessary).

Would create a presumption that hepatitis or tuberculosis that develops or manifests itself during a public safety officer's employment is a work-related injury.

2. This measure should be: (Please circle desired position.)

Supported

Opposed

Supported if amended

Placed on Watch List

Other (explain)

3. Please explain your reasons for the above determination, including how this measure affects your Department and the fiscal impact of this measure on the City. Please make your comments in a format that can be used in a letter to State officials. (Continue on next page or attach additional sheets if necessary.)

See attached memorandum.

(Continue answer to Question No. 3 here)

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

Oppose legislation which will mandate local governments to incur costs and which do not include an appropriation for reimbursement.

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

**Oppose: League of California Cities;
County Supervisors Association of California (CSAC).**

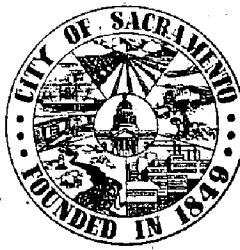
**Support: California Organization of Police and Sheriffs;
California Applicants Attorneys Association;
California Society of Industrial Medicine and Surgery;
Peace Officers Research (PORAC);
and others.**

7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento? _____

FORM COMPLETED BY: Diane B. Balter

DATE: 4/1/93



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MAR 24 1993 3:47

City Attorney, S. UNCG

DEPARTMENT OF
PERSONNEL

CITY OF SACRAMENTO
CALIFORNIA

921 TENTH STREET
THIRD FLOOR
SACRAMENTO, CA
95814-2713

WORKERS' COMPENSATION UNIT

March 24, 1993

916-449-5741

DONNA L. GILES
DIRECTOR OF
PERSONNEL

MEMORANDUM

To: Diane Balter, Deputy City Attorney

Subject: AB 428

The City Safety Office and Workers' Compensation Unit have reviewed AB 428 and are opposed to this measure. The following information is provided for your consideration.

FINDINGS

AB 428 would provide a presumption under Workers' Compensation that hepatitis and tuberculosis develops or manifests itself during the time of employment for certain law enforcement type occupations.

This presumption is not required because Federal OSHA (Bloodborne Pathogen Act), Standard 29, Code of Federal Regulations, Section 1910.10, and Cal/OSHA, Section 5193, Title 8, California Code of Regulations (effective 1-1-93) require written policies and procedures be added to every employers Injury and Illness Prevention Program to control potential occupational exposures to infectious materials. Further, the Act requires employers to identify "at risk" employee classifications and make available to those classifications hepatitis B vaccination at no cost.

Attached is a copy of the City of Sacramento policy relating to City employees bloodborne pathogen control. Section four (4) of this policy has all police officer type classifications identified to receive the vaccine.

Further, all hepatitis is not the same. AB 428 fails to distinguish between hepatitis A and hepatitis B, or non A and B. The mode of disease causation and transmission differ and clearly are not related to occupational exposures but rather personal hygiene practices.

AB 428 is not needed because infectious hepatitis B is totally preventable and prevention is mandated under Cal/OSHA. Other forms of hepatitis are not infectious yet AB 428 appears to include them.

Tuberculosis is a disease that is also preventative. ^{b7e} The Cal/OSHA Standards Board is currently reviewing the third draft of an occupation TB control standard and the Centers for Disease Control have revised their 1990 guidelines. Occupational exposures can be controlled and mandates to do so are just around the corner. However, these controls only impact employers. Therefore, employees who contract the disease, may have done so outside the course and scope of employment. A presumption as proposed in AB 428 is therefore not appropriate.



J.L (Jack) Anderson
Safety Officer

cc: Margaret Allen
Karen Long


CITY OF SACRAMENTO

PERSONNEL POLICY INSTRUCTIONS

TOPIC: Policy Relating to City Employee Effective Date: 03-01-93
Bloodborne Pathogen Control

FROM: Department of Personnel Supersedes: New

To: Department Heads/Division Chiefs Section: IV-93-11



DONNA L. GILES
Director of Personnel

APPROVED: 

WALTER J. SLIFE
City Manager

SUMMARY OF CONTENTS

1. Purpose and Scope
2. Policy
3. Definitions
4. At Risk Employees
by Classification
5. Changes to Class
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7. Reimbursement

CITY EMPLOYEE BLOODBORNE PATHOGEN CONTROL

POLICY AND PROCEDURE

1. Purpose and Scope

- 1.1 To establish the policy and procedures to help protect City employees and citizens from the transmission of infectious bloodborne pathogens. It is the intent of this policy and procedure to comply fully with Federal OSHA (BLOODBORNE PATHOGEN ACT), Standard 29, Code of Federal Regulations, Section 1910.10, and Cal/OSHA, Section 5193, Title 8, California Code of Regulations.
- 1.2 This Policy and Procedure will be added to the City Injury and Illness Prevention Program (IPP) Manual, Section 7-2, to comply with California Code of Regulations, Title 8, Section 5193(c) (1) (A) "Exposure Control Plan".

2. Policy

- 2.1 It is the policy of the City that employees shall be required to follow the procedures to control potential occupational exposures of direct and indirect contact to infectious materials. All body fluids shall be considered potentially infectious and universal precautions shall be taken.
- 2.2 Employee classifications that must meet the Bloodborne Pathogen Act requirements shall be identified by the City Safety Officer and listed in Section 4 of this policy.
- 2.3 All affected City Departments shall establish written procedures (Standard Operation Procedures, General Orders, Manual of Operations) for compliance including training of employees in those procedures. Engineering and work practice controls shall be in writing and comply with the minimum requirements of Section 5193, (d), Title 8, California Code of Regulations.
- 2.4 Hepatitis B vaccination shall be made available at no out of pocket cost to employees listed in the classifications in Section 4 of this policy, by contacting the City Safety Officer and making an appointment to see the City-designated physician. Employees listed in Section 4, who choose to obtain the vaccination from their personal physician or health care provider shall receive reimbursement pursuant to Section 7 of this policy.

- 2.5 Employees in those classifications listed in Section 4 of this policy who decline to accept the Hepatitis B vaccination shall sign the federally mandated statement of vaccine declination (APPENDIX A). These statements will be filed with the employee's medical records.
- 2.6 Employees who sign the statement of declination may revoke the declination by contacting the City Safety Officer and agreeing to accept the Hepatitis B vaccination.

3. Definitions

- 3.1 Bloodborne Pathogens - pathogenic microorganisms that are present in human blood and can cause disease in humans.
- 3.2 Contaminated - the presence of or the reasonably anticipated presence of body fluids or other potentially infectious materials.
- 3.3 Engineering Controls - controls that isolate or remove the bloodborne pathogen hazard from the workplace (e.g., sharps disposal containers, self-sheathing needles).
- 3.4 Exposure Incident - means a specific contact with potentially infectious materials that results from the performance of an employee's duties during the course and scope of employment.
- 3.5 Infectious Materials - materials listed in the California Code of Regulations, Title 8, Section 5193 which include: semen, vaginal secretions, cerebrospinal fluid (brain), synovial fluid (bone joints), pleural fluid (lung), pericardial fluid (heart), peritoneal fluid (chest cavity), amniotic fluid (embryo sac), saliva, vomitus or blood.
- 3.6 Occupational Exposure - any reasonably anticipated exposure incident to infectious materials that may result from the performance during the scope and course of an employee's duties.
- 3.7 Universal Precautions - all human blood and body fluids are to be treated as if known to be infectious for Human Immunodeficiency Virus (HIV), Hepatitis B Virus (HBV), and other bloodborne pathogens.

4. Employee Classifications Affected

Employees working in the following job classifications shall be required to meet the requirements of the Bloodborne Pathogen Act as required in this policy (S = some in the classification A = all in the classification, PS = Plant Services, FS = Field Services, SW = Solid Waste, CC = 4th R Child Care).

4. Employee Classifications Affected (Continued)

<u>CLASS TITLE</u>	<u>S/A</u>	<u>EXPOSURE</u>
Animal Control Officer	A	Animal bite victims
Building Inspector	A	Infectious evidence
Child Care Activity Programmer	A	First Aide/Care
Child Care Assistant	A	First Aide/Care
Child Care Coordinator	A	First Aid/Care
Child Care Program Supervisor	A	First Aid/Care
Child Care Site Coordinator	A	First Aid/Care
Community Service Officer	A	First Aid
Electrician R1/R2; PS, FS.	S	Raw sewage
Electrician Supvr. R1/R2; PS, FS.	S	Raw sewage
Fire Apparatus Operator	A	First Aid
Fire Captain	A	First Aid
Fire Inspector	A	First Aid
Fire Investigator I/II	A	Infectious evidence
Firefighter	A	First Aid
Identification Technician I/II/III	A	Infectious evidence
Instrument Technician; PS, FS.	S	Raw sewage
Lifeguard	A	First Aid
Machinist Helper R1/R2; PS, FS.	S	Raw sewage
Machinist R1/R2; PS, FS.	S	Raw sewage
Machinist Supervisor R1/R2; PS, FS.	S	Raw sewage
Maintenance Worker; SW.	S	Infectious waste
Nuisance Abatement Officer	A	Infectious evidence
Nurse	A	First Aid
Park Maintenance Worker I/II/III	A	Infectious waste

4. Employee Classifications Affected (Continued)

<u>CLASS TITLE</u>	<u>S/A</u>	<u>EXPOSURE</u>
Plant Operator I/II/III	A	Raw water/sewage
Plumber	A	Raw sewage
Police Lieutenant	A	First Aid
Police Officer	A	First Aid
Police Sergeant	A	First Aid
Property Assistant	A	Infectious evidence
Recreation Aide; CC.	S	First Aid/Care
Reserve Police Officer	A	First Aid
Senior Animal Control Officer	A	Animal bite victims
Senior Lifeguard	A	First Aid
Senior Maintenance Worker; PS, FS.	S	Raw sewage
Senior Nuisance Abatement Officer	A	Infectious evidence
Senior Property Assistant	A	Infectious evidence
Supervising I.D. Technician	A	Infectious evidence
Supervising Instr. Tech.; PS, FS.	S	Raw sewage
Supervising Plant Operator	A	Raw water/sewage
Supervising Property Assistant	A	Infectious evidence
Supervising Water Quality Chemist	A	Raw water/sewage
Vehicle Abatement Officer	A	Infectious evidence
Water & Sewer Leadworker	A	Raw sewage
Water & Sewer Supervisor	A	Raw sewage
Water & Sewer Serviceworker	A	Raw sewage
Water Quality Chemist	A	Raw water/sewage
Water Quality Inspector	A	Raw water/sewage
Water Quality Lab Technician	A	Raw water/sewage

5. Changes To Class Requirements

Additions, deletions, or modifications to the classification requirements of this policy may be submitted to the Departmental Safety Representative who will review and forward the request to the City Safety Officer.

6. Compliance

Compliance with Section 2.1 and 2.5 is mandatory for all employees in the classifications listed in Section 4. Failure to comply with the requirements of this policy may lead to disciplinary action.

7. Reimbursement

Employees who elect to obtain the vaccination from their personal physician or health care provider shall be entitled to reimbursement only if the following conditions are met:

1. Vaccination series was completed.
2. All three copayment receipts are submitted to the City Safety Officer for verification and reimbursement.

The amount of reimbursement will be determined by the actual cost to the City to provide the vaccine. Reimbursement shall be limited to the lesser amount of either the vaccination receipts or City cost.

APPENDIX "A"

HEPATITIS B VACCINE DECLINATION

The following declination statement is mandatory for employees who decline to accept hepatitis B vaccination offered by the City of Sacramento as required by Title 8, California Code of Regulations, Section 5193 (f) (2) (D).

Note: Authority cited: Section 142.3, Labor Code.
Reference: Section 142.3, Labor Code and Chapter 6.1 of the Health & Safety Code.

I _____ understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring Hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with Hepatitis B vaccine, at no charge to myself. However, I decline Hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring Hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with Hepatitis B vaccine, I can receive the vaccination series at no charge to me by contacting the City Safety Officer.

_____ employee signature	_____ name printed	_____ date
_____ supervisor signature / witness	_____ name printed	_____ date

I _____ decline vaccination at this time because I have been previously vaccinated for Hepatitis B.

_____ employee signature	_____ name printed	_____ date
_____ supervisor signature / witness	_____ name printed	_____ date

Original to medical file.

Introduced by Assembly Member Burton

February 10, 1993

An act to add Section 3212.8 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 428, as introduced, Burton. Workers' compensation.

Existing law provides for compensation for an employee's injuries occurring in the course of employment. Under existing law, in the case of certain local peace officers, tuberculosis that develops or manifests itself during the time of employment and for a period of time afterward is presumed to be an injury arising out of employment.

This bill would provide that in the case of a member of a police department of a city or county, or a member of the sheriff's office of a county, or an inspector or investigator in a district attorney's office of any county, when that member is employed upon a regular, full-time salary, the term "injury" includes hepatitis or tuberculosis that develops or manifests itself during a period while the member is in the service of that department or office. It would provide that there is a presumption that those diseases arose out of and in the course of employment if they manifest themselves during employment or for a period of time afterward.

The bill would impose a state-mandated local program by expanding the scope of workers' compensation liability for certain local entities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State

Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3212.8 is added to the Labor
2 Code, to read:

3 3212.8. In the case of a member of a police
4 department of a city or county, or a member of the
5 sheriff's office of a county, or an inspector or investigator
6 in a district attorney's office of any county, when that
7 member is employed upon a regular, full-time salary, the
8 term "injury" includes hepatitis and tuberculosis that
9 develops or manifests itself during a period while the
10 member is in the service of that department or office.
11 The compensation which is awarded for that hepatitis or
12 tuberculosis shall include full hospital, surgical, and
13 medical treatment, disability indemnity, and death
14 benefits as provided by this division.

15 Hepatitis, or tuberculosis so developing or manifesting
16 itself shall be presumed to arise out of and in the course
17 of the employment. This presumption is disputable and
18 may be controverted by other evidence, but unless
19 controverted, the appeals board is bound to find in
20 accordance with it. This presumption shall be extended
21 to a member following termination of service for a period
22 of three calendar months for each full year of the
23 requisite service, but not to exceed 60 months in any
24 circumstance, commencing with the last date actually
25 worked in the specified capacity.

26 SEC. 2. Notwithstanding Section 17610 of the

1 Government Code, if the Commission on State Mandates
2 determines that this act contains costs mandated by the
3 state, reimbursement to local agencies and school
4 districts for those costs shall be made pursuant to Part 7
5 (commencing with Section 17500) of Division 4 of Title
6 2 of the Government Code. If the statewide cost of the
7 claim for reimbursement does not exceed one million
8 dollars (\$1,000,000), reimbursement shall be made from
9 the State Mandates Claims Fund. Notwithstanding
10 Section 17580 of the Government Code, unless otherwise
11 specified in this act, the provisions of this act shall become
12 operative on the same date that the act takes effect
13 pursuant to the California Constitution.

O