

City of Fayetteville Item Review Form

2014-0260

Legistar File Number

7-1-2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Mayor Jordan

Submitted By

Administration

Department

Action Required:

A Resolution in support of state legislation which would authorize Workers Compensation Insurance to cover mental injuries and illnesses of emergency responders.

Does this item have a cost? No

Cost of this request	Category or Project Budget	Program or Project Name
Account Number	Funds Used to Date	Program or Project Category
Project Number	Remaining Balance	Fund Name

\$0.00

Budgeted Item? No

Budget Adjustment Attached? No

V20130812

Previous Ordinance or Resolution # _____

Original Contract Number: _____



Comments:

[Signature] 6/16/14

Paul A. Becker 6-16-2014

Don May 6-17-14

[Signature]



CITY COUNCIL AGENDA MEMO

MEETING OF JULY 1, 2014

TO: City Council

FROM: Mayor Lioneld Jordan

DATE: June 10, 2014

SUBJECT: A Resolution in support of state legislation which would authorize Workers Compensation Insurance to cover mental injuries and illnesses of emergency responders.

RECOMMENDATION:

A Resolution for the City Council to support state legislation which would provide for worker compensation insurance coverage for mental injuries and illness of emergency responders.

BACKGROUND:

The City of Fayetteville would like to have our workers compensation insurance that we buy be allowed to cover mental work injuries for emergency responders, but under current law, we are prohibited.

DISCUSSION

Under existing Arkansas law, workers compensation plans cannot cover a proven work-caused mental injury unless the employee also experienced a physical injury at the same time, or the employee is a victim of a crime while acting in the line of duty.

These emergency responders should not have to bear the burden of these injuries by themselves. When these injuries occur due to a work related incident, they should be covered by the worker's compensation law.

BUDGET/STAFF IMPACT:

None

Attachments:

Bill for the 2015 Legislative session authored by Senator Jon Woods.

RESOLUTION NO. _____

A RESOLUTION TO EXPRESS THE CITY COUNCIL’S SUPPORT OF A LEGISLATIVE ENACTMENT TO PROVIDE FOR WORKERS COMPENSATION INSURANCE COVERAGE FOR EMERGENCY RESPONDERS FOR WORK-RELATED MENTAL INJURY OR ILLNESS

WHEREAS, under current Arkansas law, workers compensation plans cannot cover a proven work-related mental injury or illness unless the employee also experienced a physical injury at the same time, or if the employee is a victim of a crime while acting in the line of duty; and

WHEREAS, emergency responders should have the benefit of workers compensation coverage for mental injuries or illnesses when they occur due to a work-related incident.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its support of a legislative enactment to provide for workers compensation insurance coverage for mental injury or illness for emergency responders when those mental injuries or illnesses occur due to a work-related incident.

PASSED and APPROVED this 1st day of July, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4
5 By: Senator J. Woods
6

A Bill

ANS/ANS
SENATE BILL

For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR THE COMPENSABILITY OF MENTAL
9 INJURY OR ILLNESS FOR EMERGENCY RESPONDERS; TO AMEND
10 A PORTION OF THE ARKANSAS CODE WHICH RESULTED FROM
11 INITIATED ACT 4 OF 1948; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO PROVIDE FOR THE COMPENSABILITY OF
16 MENTAL INJURY OR ILLNESS FOR EMERGENCY
17 RESPONDERS AND TO AMEND A PORTION OF THE
18 ARKANSAS CODE WHICH RESULTED FROM
19 INITIATED ACT 4 OF 1948.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 11-9-113(a)(1), concerning compensability
25 of mental injury or illness, is amended to read as follows:

26 11-9-113. Mental injury or illness.

27 (a)(1) A mental injury or illness is not a compensable injury unless
28 it is caused by physical injury to the employee's body, and shall not be
29 considered an injury arising out of and in the course of employment or
30 compensable unless it is demonstrated by a preponderance of the evidence;
31 provided, however, that this physical injury limitation shall not apply to
32 any victim of a crime of violence or as provided by § 11-9-119.
33

34 SECTION 2. Arkansas Code Title 11, Chapter 9, Subchapter 1, is amended
35 to add an additional section to read as follows:

36 11-9-119. Mental injury or illness -- Emergency responder.

DRAFT

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1 (a) As used in this section:

2 (1) "Disaster" means a tornado, storm, flood, high water,
3 earthquake, fire, radiological incident, air or surface-borne toxic or other
4 hazardous material contamination, or other emergency, whether manmade or
5 resulting from natural causes;

6 (2)(A) "Emergency" means an unforeseen circumstance, occurrence,
7 or condition, whether man-made or resulting from natural causes.

8 (B) "Emergency" includes without limitation:

9 (i) An accident involving a motor vehicle or another
10 mode of transportation;

11 (ii) A disaster; or

12 (iii) The scene of a criminal act or crime of
13 violence; and

14 (3)(A) "Emergency responder" means an employee who:

15 (i) Is authorized in the course of his or her
16 employment to respond or assist in a disaster or emergency;

17 (ii) Is acting in an assigned role in public safety
18 and emergency services; and

19 (iii) Responds to the scene of a disaster or an
20 emergency.

21 (B) "Emergency responder" may include without limitation:

22 (i) Law enforcement officers; and

23 (ii) Firefighters.

24 (b) For purposes of this section and the payment of workers'
25 compensation benefits, an emergency responder is considered to be an employee
26 of the emergency responder's employer as provided by § 12-75-129.

27 (c) A mental injury or illness of an emergency responder is considered
28 a compensable injury under this section if:

29 (1) By a preponderance of the evidence the injury is
30 demonstrated to be arising out of and in the course of the emergency
31 responder's employment;

32 (2) It is diagnosed by a licensed psychiatrist or psychologist;
33 and

34 (3) The diagnosis meets the criteria established in the most
35 current issue of the Diagnostic and Statistical Manual of Mental Disorders.

36 (d) Before filing a workers' compensation claim for mental injury or

SB

1 illness under this section, an emergency responder shall participate in at
2 least one (1) employee assistance program that provides counseling services
3 if offered by his or her employer.

4 (e) Notwithstanding any other provision of this chapter, a claim for
5 mental injury or illness is limited to twenty-six (26) weeks of disability
6 benefits.

7 (f) If death results directly from the mental injury or illness of an
8 emergency responder, compensation shall be paid to his or her dependents as
9 provided in other death cases under this chapter.

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