

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 655

By: Thompson

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5
6 AS INTRODUCED

7 An Act relating to workers' compensation; amending 85
8 O.S. 2011, Section 380, as amended by Section 45,
9 Chapter 254, O.S.L. 2013 (85 O.S. Supp. 2020, Section
10 380), which relates to Volunteer Firefighters Group
11 Insurance Pool; modifying entity to administer
12 certain insurance pool; conforming language; amending
13 Section 13, Chapter 208, O.S.L. 2013 (85A O.S. Supp.
14 2020, Section 13), which relates to mental injury or
15 illness; adding exception to physical injury
16 limitation on compensable injury; requiring employer
17 to provide medical treatment under certain
18 circumstances; placing a limitation on employer
19 responsibility for certain medication; requiring
20 certain compensation; requiring maintenance of health
21 insurance coverage under certain circumstances;
22 defining terms; updating statutory references; and
23 providing an effective date.

24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

25 SECTION 1. AMENDATORY 85 O.S. 2011, Section 380, as
26 amended by Section 45, Chapter 254, O.S.L. 2013 (85 O.S. Supp. 2020,
27 Section 380), is amended to read as follows:

28 Section 380. A. 1. Volunteer fire departments organized
29 pursuant to state law may obtain workers' compensation insurance for
30 volunteer firefighters through the Volunteer Firefighter Group

1 Insurance Pool pursuant to requirements established by ~~CompSource~~
2 ~~Mutual Insurance Company~~ the Office of Management and Enterprise
3 Services (OMES) which shall administer the Pool. For the premium
4 set by ~~CompSource Mutual Insurance Company~~ OMES, the state shall
5 provide Fifty-five Dollars (\$55.00) per firefighter per year.

6 Except as otherwise provided by subsection D of this section, the
7 total amount paid by the state shall not exceed Three Hundred Twenty
8 Thousand Three Hundred Thirty-eight Dollars (\$320,338.00) per year
9 or so much thereof as may be necessary to fund the Volunteer
10 Firefighter Group Insurance Pool.

11 2. ~~CompSource Mutual Insurance Company~~ OMES shall collect the
12 premium from state agencies, public trusts and other
13 instrumentalities of the state. Any funds received by ~~CompSource~~
14 ~~Mutual Insurance Company~~ OMES from any state agency, public trust,
15 or other instrumentality for purposes of workers' compensation
16 insurance pursuant to this section shall be deposited to the credit
17 of the Volunteer Firefighter Group Insurance Pool. ~~CompSource~~
18 ~~Mutual Insurance Company~~ OMES shall collect premiums, pay claims,
19 and provide for excess insurance as needed.

20 B. ~~CompSource Mutual Insurance Company~~ OMES shall report,
21 annually, to the Governor, the Speaker of the Oklahoma House of
22 Representatives, and the President Pro Tempore of the State Senate
23 the number of enrollees in the Volunteer Firefighter Group Insurance
24 Pool, and the amount of any anticipated surplus or deficiency of the

1 Pool; and shall also provide to the Governor, the Speaker of the
2 Oklahoma House of Representatives and the President Pro Tempore of
3 the State Senate sixty (60) days advance notice of any proposed
4 change in rates for the Volunteer Firefighter Group Insurance Pool.

5 C. The amount of claims paid, claim expenses, underwriting
6 losses, loss ratio, or any other financial aspect of the Volunteer
7 Firefighter Group Insurance Pool shall not be considered when
8 determining or considering bids for the amount of any premiums,
9 rates, or expenses owed by, or any discounts, rebates, dividends, or
10 other financial benefits owed to any other policyholder of
11 ~~CompSource Mutual Insurance Company~~ OMES.

12 D. Except as otherwise provided by law, any increase in the
13 state payment rate for volunteer firefighters under the Volunteer
14 Firefighter Group Insurance Pool shall not exceed five percent (5%)
15 per annum. Any proposed change in rates for the Volunteer
16 Firefighter Group Insurance Pool must be approved by the Board of
17 Directors of ~~CompSource Mutual Insurance Company~~ OMES with notice
18 provided pursuant to subsection B of this section. ~~CompSource~~
19 ~~Mutual Insurance Company~~ OMES shall not increase premiums for the
20 Volunteer Firefighter Group Insurance Pool more than once per annum.

21 E. For purposes of this section, the term "volunteer fire
22 departments" includes those volunteer fire departments which have
23 authorized voluntary or uncompensated workers rendering services as
24 firefighters and are created by statute pursuant to Section 592 of

1 Title 18 of the Oklahoma Statutes, Sections 29-201 through 29-204 of
2 Title 11 of the Oklahoma Statutes, and those defined by Section 351
3 of Title 19 of the Oklahoma Statutes.

4 SECTION 2. AMENDATORY Section 13, Chapter 208, O.S.L.
5 2013 (85A O.S. Supp. 2020, Section 13), is amended to read as
6 follows:

7 Section 13. A. 1. A mental injury or illness is not a
8 compensable injury unless caused by a physical injury to the
9 employee, and shall not be considered an injury arising out of and
10 in the course and scope of employment or compensable unless
11 demonstrated by a preponderance of the evidence; provided, however,
12 that this physical injury limitation shall not apply to any victim
13 of a crime of violence or to a first responder who suffers post-
14 traumatic stress disorder after responding to an emergency.

15 2. No mental injury or illness under this section shall be
16 compensable unless it is also diagnosed by a licensed psychiatrist
17 or psychologist and unless the diagnosis of the condition meets the
18 criteria established in the ~~most current issue~~ Fourth Edition of the
19 Diagnostic and Statistical Manual of Mental Disorders.

20 B. 1. Notwithstanding any other provision of ~~this act~~ the
21 Administrative Workers' Compensation Act, where a claim is for
22 mental injury or illness, the employee shall be limited to twenty-
23 six (26) weeks of disability benefits unless it is shown by clear
24

1 and convincing evidence that benefits should continue for a set
2 period of time, not to exceed a total of fifty-two (52) weeks.

3 2. a. In cases where death results directly from the mental
4 injury or illness within a period of one (1) year,
5 compensation shall be paid the dependents as provided
6 in other death cases under ~~this act~~ the Administrative
7 Workers' Compensation Act.

8 b. Death directly or indirectly related to the mental
9 injury or illness occurring one (1) year or more from
10 the incident resulting in the mental injury or illness
11 shall not be a compensable injury.

12 C. 1. In the event the Workers' Compensation Commission
13 determines that a first responder has suffered post-traumatic stress
14 disorder not accompanied by a physical injury, the employer shall
15 provide reasonable and necessary medical treatment for such injury
16 subject to the Fee Schedule for workers' compensation for a period
17 not to exceed one (1) year. The employer shall not be responsible
18 for medical treatment in the form of prescription medication in
19 excess of Ten Thousand Dollars (\$10,000.00).

20 2. If the treating physician determines that the first
21 responder is temporarily unable to perform his or her job or any
22 alternative work offered by the employer, he or she shall be
23 entitled to receive compensation which is the greater of:
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1 a. the weekly benefit provided for in a collective
2 bargaining agreement or according to the policy of the
3 employer, or

4 b. seventy percent (70%) of the injured employee's
5 average weekly wage not to exceed the state average
6 weekly wage.

7 In no event shall disability benefits extend beyond fifty-two
8 (52) weeks.

9 3. During any period in which a first responder is temporarily
10 unable to perform his or her job, the employer shall pay to maintain
11 health insurance coverage for the first responder if the insurance
12 was in effect on the date of the injury.

13 D. 1. For the purposes of this section:

14 a. "First responder" means a firefighter, law enforcement
15 officer or licensed emergency medical personnel
16 employed on a full-time basis by this state or a
17 political subdivision of this state, or a volunteer
18 firefighter,

19 b. "Law enforcement officer" means any officer, agent or
20 employee of this state or a political subdivision of
21 this state authorized by law or by a government agency
22 to engage in or supervise the prevention, detection or
23 investigation of any violation of criminal law,

1 c. "Licensed emergency medical personnel" means an
2 emergency medical technician (EMT), an intermediate
3 emergency medical technician (IEMT), an advanced
4 emergency medical technician (AEMT) or a paramedic
5 licensed by the State Department of Health to perform
6 emergency medical services in accordance with the
7 Oklahoma Emergency Response Systems Development Act
8 and the rules and standards promulgated by the State
9 Commissioner of Health,

10 d. "Post-Traumatic Stress Disorder" means an injury or
11 condition in which a first responder has been exposed
12 to a traumatic event and:

13 (1) has experienced, witnessed or was confronted with
14 an event that involved actual or threatened death
15 or serious injury, or a threat to the physical
16 integrity of others, and the response involved
17 fear, helplessness or horror,

18 (2) the traumatic event is persistently reexperienced
19 in one or more of the following:

20 (a) recurrent and intrusive distressing
21 recollections of the event,

22 (b) recurrent distressing dreams,

23 (c) acting or feeling as if the traumatic event
24 were recurring,

1 (d) intense psychological distress at exposure
2 to cues that symbolize an aspect of the
3 traumatic event, or

4 (e) physiological reactivity on exposure to cues
5 that symbolize an aspect of the traumatic
6 event,

7 (3) experiences persistent avoidance of stimuli
8 associated with the trauma and numbing of general
9 responsiveness such as efforts to avoid thoughts,
10 feelings or conversations associated with the
11 trauma, markedly diminished interest or
12 participation in significant activities or a
13 feeling of detachment or estrangement from
14 others,

15 (4) experiences persistent symptoms of increased
16 arousal such as difficulty falling or staying
17 asleep, irritability or outbursts of anger,
18 difficulty concentrating or hypervigilance,

19 (5) the duration of the disturbance is more than one
20 month, and

21 (6) the disturbance causes clinically significant
22 distress or impairment in social, occupational
23 and other important areas of functioning, and

1 e. "Volunteer firefighter" means a person who is enrolled
2 as a member of a fire department with two or less
3 salaried firefighters and who serves without receiving
4 a regular salary.

5 SECTION 3. This act shall become effective November 1, 2021.

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