



MEMO

To: Members of the House Veterans Affairs and Emergency Preparedness Committee

From: Amy Sturges, Director of Governmental Affairs, PA Municipal League and PA State Association of Township Commissioners

Geoffery Beauchamp, Esq., General Counsel, Delaware Valley Municipal Management Association

Ed Troxell, Director of Governmental Affairs, PA State Association of Boroughs

Joe Gerdes, Director of Government Relations, PA State Association of Township Supervisors

Re: House Bill 432 and House Bill 1459 – Post-traumatic Stress Injury

Date: September 23, 2019

On behalf of our members, please accept the following comments on HB 432 and HB 1459 scheduled to come before the Committee tomorrow, September 24. These bills seek to address post-traumatic stress injury in first responders. Please note, some of us provided written testimony to the Committee in February regarding these bills and our position has not changed.

House Bill 432 (PN 419) and Amendments – Strongly Oppose

First and foremost, as any employee, a first responder can utilize his or her health insurance as an immediate avenue of relief and treatment of stress and stress related illness. Additionally, all employees have an avenue through workers' compensation to make a disability claim for mental injury caused by stress. Claimants have a high burden, long established by case law, to prove the employment-related events causing stress were objective abnormal working conditions for their particular field. Thus, first responders, who encounter stressful situations as a matter of course, have to show the events causing their mental injuries were significantly out of the ordinary.

As originally introduced, House Bill 432 designated a "post-traumatic stress injury" ("PTSI") as an occupational disease for which there is a presumption of work-relatedness. The definition of PTSI was

not limited to post-traumatic stress disorder (“PTSD”) and included the effect of “cumulative stress” suffered by a first responder in the course of his or her employment.

We understand that the more recent version of the bill eliminates the presumption but seeks to make it easier for first responders to prove their claim by removing the objective abnormal working condition requirement and broadly including *any and all* mental conditions as compensable, not just PTSD. As written, this bill creates a broad and uninsurable benefit that will be costlier than the firefighter cancer presumption law of several years ago.

Since the Committee hearing, we have provided several sets of comments and amendatory language to narrow this broad bill and make it a fair and affordable benefit for employees, employers and taxpayers. Unfortunately, as of today, the final proposed amendment to House Bill 432 has not been shared with us. While we were provided an amended version of the bill last week that lacks a presumption, it is still so broad that it would create a compensable claim for any and all mental maladies that can be tied to a first responder’s employment, including mental conditions not caused by any identifiable traumatic events. The practical result is that municipal employers will be responsible for compensating employees for stressful events that occurred during other previous employment, including the military.

We firmly advocate for the legislation limited to PTSD that includes a requirement for direct exposure to a comprehensive list of traumatic events that would not otherwise meet the “objective abnormal working condition” requirement for such “mental-mental” injuries under current law. This narrows the scope of the bill while providing a definitive description of events that have the potential to trigger PTSD.

We are not opposed to legislation compensating for legitimate post-traumatic stress injury claims that can be fairly adjudicated and creates a benefit that is insurable. As now presented this legislation imposes a costly unfunded mandate that will severely stress municipal budgets to the ultimate detriment of first responders. We believe more work is needed on this bill and commit to working toward a well written and fair piece of legislation. We ask that you vote “no” to adopting any amendments at this time and to moving the bill out of Committee.

House Bill 1459 (PN 1826) – Strongly Support

This bill establishes a mental wellness and stress management protocol for first responders within the PA Department of Health. The bill puts in place a number of tools for first responders to use when dealing with post-traumatic stress including peer to peer support, a toll-free helpline, Critical Incident Stress Management, and trauma awareness training.

We support this bill and believe it should be the first step in addressing mental health and post-traumatic stress in first responders. This bill has the potential to help those suffering from work related stress much more than HB 432. Our focus as a Commonwealth should be to address stress early on and head off the potential for it to manifest into illness.

Again, we support addressing first responder stress and claims of post-traumatic stress injury with a fair and reasoned bill.

Thank you for your consideration.