



## Staff Reports

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**File #:** 2188-2019, **Version:** 1

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**To:** Honorable Mayor and Members of City Council

**From:** Jennifer Brizel, Human Resources Director

**Prepared By:** Jennifer Brizel, Human Resources Director

**TITLE:**

Workers' Compensation Insurance for Peace Officers

**RECOMMENDED ACTION:**

Adopt a Resolution authorizing the City to accept liability for compensation, under Workers' Compensation and Insurance laws, for an injury sustained by a City police officer ("peace officer") while outside the State of California, who was not at the time acting under the immediate direction of his or her employer, subject to the limits identified in California Labor Code Section 3600.2(b)(4).

**DISCUSSION:**

The City of Napa is a member of the CSAC Excess Insurance Authority Joint Powers Authority ("CSAC EIA"), by which the City obtains pooled insurance coverage for a range of potential City liabilities, including insurance coverage for workers' compensation to generally cover the costs of injuries to all City employees while performing work in the course and scope of employment with the City.

In March of 2019, CSAC EIA notified all of its members, including the City, that an endorsement to the workers' compensation insurance coverage had been adopted that will provide coverage for injuries to "peace officers" (which includes all City of Napa police officers) for injuries resulting from a limited set of activities occurring when the peace officer was out of the State of California and not acting under the immediate direction of an employer (essentially including activities by peace officers when engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace). However, in order for the City to receive coverage under the endorsement, which has an effective date of July 1, 2019, the City Council must adopt a resolution that implements California Labor Code Section 3600.2(b)(4). As summarized in this report, staff recommends that City Council adopt the attached resolution in order to obtain the workers' compensation insurance coverage offered by the CSAC EIA endorsement.

The City requires all police officers to follow City policies and Police Department General Orders and protocols, and this includes policies that govern the conduct of peace officers if confronted with the potential for off-duty law enforcement actions. Generally, if a police officer sustains injuries while performing off-duty law enforcement actions within the State of California that are consistent with City policies, those actions are deemed to be covered by workers' compensation benefits (and are within the scope of the City's workers' compensation insurance coverage by CSAC EIA) if the police officer

is engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace, even if the police officer is not within the immediate direction of his or her employer. (See California Labor Code Section 3600.2(a).)

In the 2018 state legislative session, Assembly Bill 1749 was enacted, establishing a new California Labor Code Section 3600.2(b)(4) which provides a potential expansion of workers' compensation coverage for injuries sustained by peace officers while off-duty and outside the State of California. Essentially, under Labor Code Section 3600.2(b)(4), if the City Council adopts the attached resolution, workers' compensation coverage will be available to any police officer who is injured while outside the State of California as long as the police officer is acting in accordance with City policies (as summarized above), and the officer is engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or protection or preservation of life or property, or the preservation of the peace, even if the police officer is not within the immediate direction of his or her employer. (NPD Policy 355.)

As noted above, CSAC EIA has offered workers' compensation coverage to peace officers who are injured while outside the state of California when the officer is not acting under the immediate direction of his or her employer, only if:

1. The peace officer was engaging in the apprehension or attempted apprehension of law violators or suspected law violators, or in protection or preservation of life or property, or the preservation of the peace; and
2. Prior to the occurrence, the City Council has adopted a resolution, as provided for in California Labor Code Section 3600.2 (b)(4), accepting liability for such injury.

The Police Chief, Human Resources Director, and the City Manager recommend that City Council adopt the attached Resolution authorizing the City to accept liability for compensation under California Workers' Compensation laws, and in order to accept workers' compensation coverage from CSAC EIA, for injuries to City police officers ("peace officers") that occur outside the State of California under the parameters summarized in this report.

#### **FINANCIAL IMPACTS:**

No additional funding is required beyond that already allocated and approved in the City budget.

#### **CEQA:**

The Human Resources Director has determined that the Recommended Action described in this Agenda Report is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c).

#### **DOCUMENTS ATTACHED:**

ATCH 1 - Resolution

#### **NOTIFICATION:**

Department Directors and Managers