

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 333

By: Weaver

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 2021, Section 380, which relates to volunteer firefighters; modifying references to CompSource Mutual Insurance Company; providing references to the Office of Management and Enterprise Services; updating statutory language; amending 85A O.S. 2021, Section 13, which relates to certain injuries related to mental health; providing for computation of benefits for certain persons; providing for temporary pension benefits; imposing limit on total period for disability benefits; providing for award of permanent total disability based upon maximum medical improvement; providing for payment of benefits based on certain injury; imposing time limit on benefits; imposing limit on employer responsibility for prescription medicine; providing for transfer of payment for claims or increased premiums incurred by cities or towns; prescribing procedures; providing for terminology in official publications; defining terms; and providing an effective date.

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

SECTION 1. AMENDATORY 85 O.S. 2021, Section 380, is amended to read as follows:

Section 380. A. 1. Volunteer fire departments organized pursuant to state law may obtain workers' compensation insurance for 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 which shall administer the Pool. For the premium set by  
4 ~~CompSource Mutual Insurance Company~~ the Office of Management and  
5 Enterprise Services, the state shall provide Fifty-five Dollars  
6 (\$55.00) per firefighter per year. Except as otherwise provided by  
7 subsection D of this section, the total amount paid by the state  
8 shall not exceed Three Hundred Twenty Thousand Three Hundred Thirty-  
9 eight Dollars (\$320,338.00) per year or so much thereof as may be  
10 necessary to fund the Volunteer Firefighter Group Insurance Pool.

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

22 B. ~~CompSource Mutual Insurance Company~~ The Office of Management  
23 and Enterprise Services shall report, annually, to the Governor, the  
24 Speaker of the ~~Oklahoma~~ House of Representatives, and the President

1 Pro Tempore of the ~~State~~ Senate the number of enrollees in the  
2 Volunteer Firefighter Group Insurance Pool, and the amount of any  
3 anticipated surplus or deficiency of the Pool; and shall also  
4 provide to the Governor, the Speaker of the ~~Oklahoma~~ House of  
5 Representatives and the President Pro Tempore of the ~~State~~ Senate  
6 sixty (60) days advance notice of any proposed change in rates for  
7 the Volunteer Firefighter Group Insurance Pool.

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

16 D. Except as otherwise provided by law, any increase in the  
17 state payment rate for volunteer firefighters under the Volunteer  
18 Firefighter Group Insurance Pool shall not exceed five percent (5%)  
19 per annum. Any proposed change in rates for the Volunteer  
20 Firefighter Group Insurance Pool must be approved by the ~~Board of~~  
21 ~~Directors of CompSource Mutual Insurance Company~~ Office of  
22 Management and Enterprise Services with notice provided pursuant to  
23 subsection B of this section. ~~CompSource Mutual Insurance Company~~  
24 The Office of Management and Enterprise Services shall not increase

1 premiums for the Volunteer Firefighter Group Insurance Pool more  
2 than once per annum.

3 E. For purposes of this section, the term "volunteer fire  
4 departments" includes those volunteer fire departments which have  
5 authorized voluntary or uncompensated workers rendering services as  
6 firefighters and are created by statute pursuant to Section 592 of  
7 Title 18 of the Oklahoma Statutes, Sections 29-201 through 29-204 of  
8 Title 11 of the Oklahoma Statutes, and those defined by Section 351  
9 of Title 19 of the Oklahoma Statutes.

10 SECTION 2. AMENDATORY 85A O.S. 2021, Section 13, is  
11 amended to read as follows:

12 Section 13. A. 1. A mental injury or illness is not a  
13 compensable injury unless caused by a physical injury to the  
14 employee, and shall not be considered an injury arising out of and  
15 in the course and scope of employment or compensable unless  
16 demonstrated by a preponderance of the evidence; provided, however,  
17 that this physical injury limitation shall not apply to any victim  
18 of a crime of violence or to a first responder.

19 2. No mental injury or illness under this section shall be  
20 compensable unless it is also diagnosed by a licensed psychiatrist  
21 or psychologist and unless the diagnosis of the condition meets the  
22 criteria established in the most current issue of the Diagnostic and  
23 Statistical Manual of Mental Disorders.

1 B. 1. Notwithstanding any other provision of this act, where a  
2 claim is for mental injury or illness, the employee shall be limited  
3 to twenty-six (26) weeks of disability benefits unless it is shown  
4 by clear and convincing evidence that benefits should continue for a  
5 set period of time, not to exceed a total of fifty-two (52) weeks.  
6 If the treating physician believes that the first responder is  
7 temporarily unable to perform his or her job or any alternative work  
8 offered by the employer, the first responder shall be entitled to  
9 receive compensation which is the greater of the weekly benefit  
10 provided for in a collective bargaining agreement or according to  
11 the policy of the employer, or seventy percent (70%) of the injured  
12 employee's average weekly wage not to exceed the state average  
13 weekly wage. If the employee has a temporary pension benefit  
14 available at no additional cost to the employee and the benefit is  
15 equal to or greater than the temporary award in this system, the  
16 employer may elect to exercise the temporary pension benefit. In no  
17 event shall disability benefits extend beyond fifty-two (52) weeks.

18 2. Notwithstanding any other provision of this section, a  
19 person who receives benefits provided pursuant to this section for a  
20 mental injury or illness not caused by a physical injury who, after  
21 reaching maximum medical improvement, is unable to perform the  
22 essential functions of his or her employment position and who is not  
23 eligible to receive a disability retirement through a pension or  
24

1 retirement system shall be eligible to be awarded permanent  
2 disability benefits as provided for in this act.

3 3. 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.

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

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

19 2. During any period in which a first responder is temporarily  
20 unable to perform his or her job, the employer shall pay to maintain  
21 health insurance coverage for the first responder if such health  
22 insurance was in effect on the date of the injury.

23 D. Any city or town in this state that incurs a claim relating  
24 to post-traumatic stress disorder may, at the city or town's option,

1 transfer the payment of all or any portion of the claim or increased  
2 workers' compensation premiums to the judgment rolls of the  
3 geographic area or areas serviced by the department of the first  
4 responder, including any unincorporated areas serviced by the  
5 department, and shall be listed on official publications as "First  
6 Responder PTSD".

7 E. As used in this section:

8 1. "First responder" means a law enforcement officer,  
9 firefighter, or licensed emergency medical personnel employed on a  
10 full-time basis by a municipality, county, or the state, or a  
11 volunteer firefighter who suffers post-traumatic stress disorder  
12 while responding to an emergency;

13 2. "Licensed emergency medical personnel" has the same meaning  
14 as provided by Section 1-2503 of Title 63 of the Oklahoma Statutes;

15 3. "Post-traumatic stress disorder" means an injury or  
16 condition in which a first responder has been exposed to a traumatic  
17 event and:

18 a. has experienced, witnessed, or was confronted with an  
19 event that involved actual or threatened death or  
20 serious injury, or a threat to the physical integrity  
21 of others, and the response involved fear,  
22 helplessness, or horror,

23 b. the traumatic event is persistently re-experienced in  
24 one or more of the following ways:

1           (1) recurrent and intrusive distressing recollections  
2           of the event,

3           (2) recurrent distressing dreams,

4           (3) acting or feeling as if the traumatic event were  
5           recurring,

6           (4) intense psychological distress at exposure to  
7           cues that symbolize an aspect of the traumatic  
8           event, or

9           (5) physiological reactivity on exposure to cues that  
10           symbolize an aspect of the traumatic event,

11       c. persistent avoidance of stimuli associated with the  
12       trauma and numbing of general responsiveness such as  
13       efforts to avoid thoughts, feelings or conversations  
14       associated with the trauma, markedly diminished  
15       interest or participation in significant activities,  
16       or a feeling of detachment or estrangement from  
17       others,

18       d. persistent symptoms of increased arousal such as  
19       difficulty falling or staying asleep, irritability or  
20       outbursts of anger, difficulty concentrating, or  
21       hypervigilance,

22       e. the duration of the disturbance is more than one (1)  
23       month, and

1           f. the disturbance causes clinically significant distress  
2           or impairment in social, occupational, and other  
3           important areas of functioning; and

4           4. "Volunteer firefighter" means a person who is enrolled as a  
5           member of a volunteer fire department with two or less salaried  
6           firefighters and who serves in such capacity without receiving a  
7           regular salary.

8           SECTION 3. This act shall become effective November 1, 2023.

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10           59-1-324           TEK           1/13/2023 12:37:29 PM