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

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Insurance Pool pursuant to requirements established by CompSource Mutual Insurance Company the Office of Management and Enterprise Services which shall administer the Pool. For the premium set by CompSource Mutual Insurance Company the Office of Management and Enterprise Services, the state shall provide Fifty-five Dollars ($55.00) per firefighter per year. Except as otherwise provided by subsection D of this section, the total amount paid by the state shall not exceed Three Hundred Twenty Thousand Three Hundred Thirty-eight Dollars ($320,338.00) per year or so much thereof as may be necessary to fund the Volunteer Firefighter Group Insurance Pool.

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

B. CompSource Mutual Insurance Company The Office of Management and Enterprise Services shall report, annually, to the Governor, the Speaker of the Oklahoma House of Representatives, and the President
Pro Tempore of the State Senate the number of enrollees in the Volunteer Firefighter Group Insurance Pool, and the amount of any anticipated surplus or deficiency of the Pool; and shall also provide to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate sixty (60) days advance notice of any proposed change in rates for the Volunteer Firefighter Group Insurance Pool.

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

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

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

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

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

2. No mental injury or illness under this section shall be compensable unless it is also diagnosed by a licensed psychiatrist or psychologist and unless the diagnosis of the condition meets the criteria established in the most current issue of the Diagnostic and Statistical Manual of Mental Disorders.
B. 1. Notwithstanding any other provision of this act, where a claim is for mental injury or illness, the employee shall be limited to twenty-six (26) weeks of disability benefits unless it is shown by clear and convincing evidence that benefits should continue for a set period of time, not to exceed a total of fifty-two (52) weeks.

If the treating physician believes that the first responder is temporarily unable to perform his or her job or any alternative work offered by the employer, the first responder shall be entitled to receive compensation which is the greater of the weekly benefit provided for in a collective bargaining agreement or according to the policy of the employer, or seventy percent (70%) of the injured employee’s average weekly wage not to exceed the state average weekly wage. If the employee has a temporary pension benefit available at no additional cost to the employee and the benefit is equal to or greater than the temporary award in this system, the employer may elect to exercise the temporary pension benefit. In no event shall disability benefits extend beyond fifty-two (52) weeks.

2. Notwithstanding any other provision of this section, a person who receives benefits provided pursuant to this section for a mental injury or illness not caused by a physical injury who, after reaching maximum medical improvement, is unable to perform the essential functions of his or her employment position and who is not eligible to receive a disability retirement through a pension or
retirement system shall be eligible to be awarded permanent disability benefits as provided for in this act.

3. a. In cases where death results directly from the mental injury or illness within a period of one (1) year, compensation shall be paid the dependents as provided in other death cases under this act.

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

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

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

D. Any city or town in this state that incurs a claim relating to post-traumatic stress disorder may, at the city or town’s option,
transfer the payment of all or any portion of the claim or increased workers’ compensation premiums to the judgment rolls of the geographic area or areas serviced by the department of the first responder, including any unincorporated areas serviced by the department, and shall be listed on official publications as “First Responder PTSD”.

E. As used in this section:

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

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

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

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

   b. the traumatic event is persistently re-experienced in one or more of the following ways:
(1) recurrent and intrusive distressing recollections of the event,
(2) recurrent distressing dreams,
(3) acting or feeling as if the traumatic event were recurring,
(4) intense psychological distress at exposure to cues that symbolize an aspect of the traumatic event, or
(5) physiological reactivity on exposure to cues that symbolize an aspect of the traumatic event,

c. persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness such as efforts to avoid thoughts, feelings or conversations associated with the trauma, markedly diminished interest or participation in significant activities, or a feeling of detachment or estrangement from others,
d. persistent symptoms of increased arousal such as difficulty falling or staying asleep, irritability or outbursts of anger, difficulty concentrating, or hypervigilance,
e. the duration of the disturbance is more than one (1) month, and
f. the disturbance causes clinically significant distress
   or impairment in social, occupational, and other
   important areas of functioning; and

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

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