

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2350

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 23-901, Arizona Revised Statutes, is amended to  
3 read:

4 23-901. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Award" means the finding or decision of an administrative law  
7 judge or the commission as to the amount of compensation or benefit due an  
8 injured employee or the dependents of a deceased employee.

9 2. "Client" means an individual, association, company, firm,  
10 partnership, corporation or any other legally recognized entity that is  
11 subject to this chapter and that enters into a professional employer  
12 agreement with a professional employer organization.

13 3. "Co-employee" means every person employed by an injured employee's  
14 employer.

15 4. "Commission" means the industrial commission of Arizona.

16 5. "Compensation" means the compensation and benefits provided by this  
17 chapter.

18 6. "Employee", "workman", "worker" and "operative" means:

19 (a) Every person in the service of the state or a county, city, town,  
20 municipal corporation or school district, including regular members of  
21 lawfully constituted police and fire departments of cities and towns, whether  
22 by election, appointment or contract of hire.

1           (b) Every person in the service of any employer subject to this  
2 chapter, including aliens and minors legally or illegally permitted to work  
3 for hire, but not including a person whose employment is both:

4           (i) Casual.

5           (ii) Not in the usual course of the trade, business or occupation of  
6 the employer.

7           (c) Lessees of mining property and their employees and contractors  
8 engaged in the performance of work that is a part of the business conducted  
9 by the lessor and over which the lessor retains supervision or control are  
10 within the meaning of this paragraph employees of the lessor, and are deemed  
11 to be drawing wages as are usually paid employees for similar work. The  
12 lessor may deduct from the proceeds of ores mined by the lessees the premium  
13 required by this chapter to be paid for such employees.

14           (d) Regular members of volunteer fire departments organized pursuant  
15 to title 48, chapter 5, article 1, regular firemen of any volunteer fire  
16 department, including private fire protection service organizations,  
17 organized pursuant to title 10, chapters 24 through 40, volunteer firemen  
18 serving as members of a fire department of any incorporated city or town or  
19 an unincorporated area without pay or without full pay and on a part-time  
20 basis, and voluntary policemen and volunteer firemen serving in any  
21 incorporated city, town or unincorporated area without pay or without full  
22 pay and on a part-time basis, are deemed to be employees, but for the  
23 purposes of this chapter, the basis for computing wages for premium payments  
24 and compensation benefits for regular members of volunteer fire departments  
25 organized pursuant to title 48, chapter 5, article 1, or organized pursuant  
26 to title 10, chapters 24 through 40, regular members of any private fire  
27 protection service organization, volunteer firemen and volunteer policemen of  
28 these departments or organizations shall be the salary equal to the beginning  
29 salary of the same rank or grade in the full-time service with the city,  
30 town, volunteer fire department or private fire protection service  
31 organization, provided if there is no full-time equivalent then the salary

1       equivalent shall be as determined by resolution of the governing body of the  
2       city, town or volunteer fire department or corporation.

3       (e) Members of the department of public safety reserve, organized  
4       pursuant to section 41-1715, are deemed to be employees. For the purposes of  
5       this chapter, the basis for computing wages for premium payments and  
6       compensation benefits for a member of the department of public safety reserve  
7       who is a peace officer shall be the salary received by officers of the  
8       department of public safety for their first month of regular duty as an  
9       officer. For members of the department of public safety reserve who are not  
10      peace officers, the basis for computing premiums and compensation benefits is  
11      four hundred dollars a month.

12      (f) Any person placed in on-the-job evaluation or in on-the-job  
13      training under the department of economic security's temporary assistance for  
14      needy families program or vocational rehabilitation program shall be deemed  
15      to be an employee of the department for the purpose of coverage under the  
16      state workers' compensation laws only. The basis for computing premium  
17      payments and compensation benefits shall be two hundred dollars per month.  
18      Any person receiving vocational rehabilitation services under the department  
19      of economic security's vocational rehabilitation program whose major  
20      evaluation or training activity is academic, whether as an enrolled attending  
21      student or by correspondence, or who is confined to a hospital or penal  
22      institution, shall not be deemed to be an employee of the department for any  
23      purpose.

24      (g) Regular members of a volunteer sheriff's reserve, which may be  
25      established by resolution of the county board of supervisors, to assist the  
26      sheriff in the performance of the sheriff's official duties. A roster of the  
27      current members shall monthly be certified to the clerk of the board of  
28      supervisors by the sheriff and shall not exceed the maximum number authorized  
29      by the board. Certified members of an authorized volunteer sheriff's reserve  
30      shall be deemed to be employees of the county for the purpose of coverage  
31      under the Arizona workers' compensation laws and occupational disease  
32      disability laws and shall be entitled to receive the benefits of these laws

1 for any compensable injuries or disabling conditions that arise out of and  
2 occur in the course of the performance of duties authorized and directed by  
3 the sheriff. Compensation benefits and premium payments shall be based ~~upon~~  
4 ON the salary received by a regular full-time deputy sheriff of the county  
5 involved for the first month of regular patrol duty as an officer for each  
6 certified member of a volunteer sheriff's reserve. This subdivision ~~shall~~  
7 ~~not be construed to~~ DOES NOT provide compensation coverage for any member of  
8 a sheriff's posse who is not a certified member of an authorized volunteer  
9 sheriff's reserve except as a participant in a search and rescue mission or a  
10 search and rescue training mission.

11 (h) A working member of a partnership may be deemed to be an employee  
12 entitled to the benefits provided by this chapter ~~upon~~ ON written acceptance,  
13 by endorsement, at the discretion of the insurance carrier for the  
14 partnership of an application for coverage by the working partner. The basis  
15 for computing premium payments and compensation benefits for the working  
16 partner shall be an assumed average monthly wage of ~~not less than~~ AT LEAST  
17 six hundred dollars ~~nor~~ BUT NOT more than the maximum wage provided in  
18 section 23-1041 and is subject to the discretionary approval of the insurance  
19 carrier. Any compensation for permanent partial or permanent total  
20 disability payable to the partner shall be computed on the lesser of the  
21 assumed monthly wage agreed to by the insurance carrier on the acceptance of  
22 the application for coverage or the actual average monthly wage received by  
23 the partner at the time of injury.

24 (i) The sole proprietor of a business subject to this chapter may be  
25 deemed to be an employee entitled to the benefits provided by this chapter on  
26 written acceptance, by endorsement, at the discretion of the insurance  
27 carrier of an application for coverage by the sole proprietor. The basis for  
28 computing premium payments and compensation benefits for the sole proprietor  
29 shall be an assumed average monthly wage of ~~not less than~~ AT LEAST six  
30 hundred dollars ~~nor~~ BUT NOT more than the maximum wage provided by section  
31 23-1041 and is subject to the discretionary approval of the insurance  
32 carrier. Any compensation for permanent partial or permanent total

1 disability payable to the sole proprietor shall be computed on the lesser of  
2 the assumed monthly wage agreed to by the insurance carrier on the acceptance  
3 of the application for coverage or the actual average monthly wage received  
4 by the sole proprietor at the time of injury.

5 (j) A member of the Arizona national guard, Arizona state guard or  
6 unorganized militia shall be deemed a state employee and entitled to coverage  
7 under the Arizona workers' compensation law at all times while the member is  
8 receiving the payment of the member's military salary from the state of  
9 Arizona under competent military orders or ~~upon~~ ON order of the governor.  
10 Compensation benefits shall be based ~~upon~~ ON the monthly military pay rate to  
11 which the member is entitled at the time of injury, ~~but not less than a~~  
12 ~~salary~~ of AT LEAST four hundred dollars per month, ~~nor~~ BUT NOT more than the  
13 maximum provided by the workers' compensation law. ~~No~~ Arizona compensation  
14 benefits shall NOT inure to a member compensable under federal law.

15 (k) Certified ambulance drivers and attendants who serve without pay  
16 or without full pay on a part-time basis are deemed to be employees and  
17 entitled to the benefits provided by this chapter and the basis for computing  
18 wages for premium payments and compensation benefits for certified ambulance  
19 personnel shall be four hundred dollars per month.

20 (l) Volunteer workers of a licensed health care institution may be  
21 deemed to be employees and entitled to the benefits provided by this chapter  
22 ~~upon~~ ON written acceptance by the insurance carrier of an application by the  
23 health care institution for coverage of ~~such~~ THE volunteers. The basis for  
24 computing wages for premium payments and compensation benefits for volunteers  
25 shall be four hundred dollars per month.

26 (m) Personnel who participate in a search or rescue operation or a  
27 search or rescue training operation that carries a mission identifier  
28 assigned by the division of emergency management as provided in section  
29 35-192.01 and who serve without compensation as volunteer state employees.  
30 The basis for computation of wages for premium purposes and compensation  
31 benefits is the total volunteer man-hours recorded by the division of

1 emergency management in a given quarter multiplied by the amount determined  
2 by the appropriate risk management formula.

3 (n) Personnel who participate in emergency management training,  
4 exercises or drills that are duly enrolled or registered with the division of  
5 emergency management or any political subdivision as provided in section  
6 26-314, subsection C and who serve without compensation as volunteer state  
7 employees. The basis for computation of wages for premium purposes and  
8 compensation benefits is the total volunteer man-hours recorded by the  
9 division of emergency management or political subdivision during a given  
10 training session, exercise or drill multiplied by the amount determined by  
11 the appropriate risk management formula.

12 (o) Regular members of the Arizona game and fish department reserve,  
13 organized pursuant to section 17-214. The basis for computing wages for  
14 premium payments and compensation benefits for a member of the reserve is the  
15 salary received by game rangers and wildlife managers of the Arizona game and  
16 fish department for their first month of regular duty.

17 (p) Every person employed pursuant to a professional employer  
18 agreement.

19 7. "General order" means an order applied generally throughout the  
20 state to all persons under jurisdiction of the commission.

21 8. "Heart-related or perivascular injury, illness or death" means  
22 myocardial infarction, coronary thrombosis or any other similar sudden,  
23 violent or acute process involving the heart or perivascular system, or any  
24 death resulting therefrom, and any weakness, disease or other condition of  
25 the heart or perivascular system, or any death resulting therefrom.

26 9. "Insurance carrier" means every insurance carrier duly authorized  
27 by the director of insurance to write workers' compensation or occupational  
28 disease compensation insurance in ~~the~~ THIS state ~~of Arizona~~.

29 10. "Interested party" means the employer, the employee, or if the  
30 employee is deceased, the employee's estate, the surviving spouse or  
31 dependents, the commission, the insurance carrier or their representative.

1           11. "Mental injury, illness or condition" means any mental, emotional,  
2 psychotic or neurotic injury, illness or condition.

3           12. "Order" means and includes any rule, direction, requirement,  
4 standard, determination or decision other than an award or a directive by the  
5 commission or an administrative law judge relative to any entitlement to  
6 compensation benefits, or to the amount thereof, and any procedural ruling  
7 relative to the processing or adjudicating of a compensation matter.

8           13. "Personal injury by accident arising out of and in the course of  
9 employment" means any of the following:

10           (a) Personal injury by accident arising out of and in the course of  
11 employment.

12           (b) An injury caused by the wilful act of a third person directed  
13 against an employee because of the employee's employment, but does not  
14 include a disease unless resulting from the injury.

15           (c) An occupational disease that is due to causes and conditions  
16 characteristic of and peculiar to a particular trade, occupation, process or  
17 employment, and not the ordinary diseases to which the general public is  
18 exposed, and subject to section 23-901.01.

19           (d) POST-TRAUMATIC STRESS DISORDER THAT IS CAUSED BY OR IS RELATED TO  
20 EMPLOYMENT AS A PEACE OFFICER AND THAT IS SUBJECT TO SECTION 23-901.09.

21           14. "Professional employer agreement" means a written contract between  
22 a client and a professional employer organization:

23           (a) In which the professional employer organization expressly agrees  
24 to co-employ all or a majority of the employees providing services for the  
25 client. In determining whether the professional employer organization  
26 employs all or a majority of the employees of a client, any person employed  
27 pursuant to the terms of the professional employer agreement after the  
28 initial placement of client employees on the payroll of the professional  
29 employer organization shall be included.

30           (b) That is intended to be ongoing rather than temporary in nature.

1 (c) In which employer responsibilities for worksite employees,  
2 including hiring, firing and disciplining, are expressly allocated between  
3 the professional employer organization and the client in the agreement.

4 15. "Professional employer organization" means any person engaged in  
5 the business of providing professional employer services. Professional  
6 employer organization does not include a temporary help firm or an employment  
7 agency.

8 16. "Professional employer services" means the service of entering  
9 into co-employment relationships under this chapter to which all or a  
10 majority of the employees providing services to a client or to a division or  
11 work unit of a client are covered employees.

12 17. "Special order" means an order other than a general order.

13 18. "Weakness, disease or other condition of the heart or perivascular  
14 system" means arteriosclerotic heart disease, cerebral vascular disease,  
15 peripheral vascular disease, cardiovascular disease, angina pectoris,  
16 congestive heart trouble, coronary insufficiency, ischemia and all other  
17 similar weaknesses, diseases and conditions, and also previous episodes or  
18 instances of myocardial infarction, coronary thrombosis or any similar  
19 sudden, violent or acute process involving the heart or perivascular system.

20 19. "Workers' compensation" means workmen's compensation as used in  
21 article XVIII, section 8, Constitution of Arizona.

22 Sec. 2. Title 23, chapter 6, article 1, Arizona Revised Statutes, is  
23 amended by adding section 23-901.09, to read:

24 23-901.09. Post-traumatic stress disorder

25 NOTWITHSTANDING SECTION 23-1043.01, POST-TRAUMATIC STRESS DISORDER OF A  
26 PEACE OFFICER IS PRESUMED TO BE A PERSONAL INJURY BY ACCIDENT ARISING OUT OF  
27 AND IN THE COURSE OF EMPLOYMENT AND IS COMPENSABLE PURSUANT TO THIS CHAPTER,  
28 IF BOTH OF THE FOLLOWING APPLY:

29 1. THERE IS A DIRECT CAUSAL CONNECTION BETWEEN THE PEACE OFFICER'S  
30 EMPLOYMENT AND THE POST-TRAUMATIC STRESS DISORDER.

1                   2. THE PEACE OFFICER IS DIAGNOSED WITH POST-TRAUMATIC STRESS DISORDER  
2           BY A PSYCHOLOGIST OR PSYCHIATRIST WHO IS LICENSED PURSUANT TO TITLE 32,  
3           CHAPTER 13, 17 OR 19.1."

4 Amend title to conform

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C: LD