

COMMITTEE ON APPROPRIATIONS  
SENATE AMENDMENTS TO S.B. 1160  
(Reference to printed bill)

1 Page 1, between lines 1 and 2, 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  
14 employee's employer.

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

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

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

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

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

1 (i) Casual.

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

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

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

1           (e) Members of the department of public safety reserve, organized  
2 pursuant to section 41-1715, are deemed to be employees. For the purposes  
3 of this chapter, the basis for computing wages for premium payments and  
4 compensation benefits for a member of the department of public safety  
5 reserve who is a peace officer shall be the salary received by officers of  
6 the department of public safety for the officers' first month of regular  
7 duty as an officer. For members of the department of public safety reserve  
8 who are not peace officers, the basis for computing premiums and  
9 compensation benefits is ~~four hundred dollars~~ \$400 a month.

10           (f) Any person placed in on-the-job evaluation or in on-the-job  
11 training under the department of economic security's temporary assistance  
12 for needy families program or vocational rehabilitation program shall be  
13 deemed to be an employee of the department for the purpose of coverage  
14 under the state workers' compensation laws only. The basis for computing  
15 premium payments and compensation benefits shall be ~~two hundred dollars~~  
16 \$200 per month. Any person receiving vocational rehabilitation services  
17 under the department of economic security's vocational rehabilitation  
18 program whose major evaluation or training activity is academic, whether as  
19 an enrolled attending student or by correspondence, or who is confined to a  
20 hospital or penal institution, shall not be deemed to be an employee of the  
21 department for any purpose.

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

1 duties authorized and directed by the sheriff. Compensation benefits and  
2 premium payments shall be based on the salary received by a regular  
3 full-time deputy sheriff of the county involved for the first month of  
4 regular patrol duty as an officer for each certified member of a volunteer  
5 sheriff's reserve. This subdivision does not provide compensation coverage  
6 for any member of a sheriff's posse who is not a certified member of an  
7 authorized volunteer sheriff's reserve except as a participant in a search  
8 and rescue mission or a search and rescue training mission.

9 (h) A working member of a partnership may be deemed to be an  
10 employee entitled to the benefits provided by this chapter on written  
11 acceptance, by endorsement, at the discretion of the insurance carrier for  
12 the partnership of an application for coverage by the working partner. The  
13 basis for computing premium payments and compensation benefits for the  
14 working partner shall be an assumed average monthly wage of not less than  
15 ~~six hundred dollars nor~~ \$600 OR more than the maximum wage provided in  
16 section 23-1041 and is subject to the discretionary approval of the  
17 insurance carrier. Any compensation for permanent partial or permanent  
18 total disability payable to the partner is computed on the lesser of the  
19 assumed monthly wage agreed to by the insurance carrier on the acceptance  
20 of the application for coverage or the actual average monthly wage received  
21 by the partner at the time of injury.

22 (i) The sole proprietor of a business subject to this chapter may be  
23 deemed to be an employee entitled to the benefits provided by this chapter  
24 on written acceptance, by endorsement, at the discretion of the insurance  
25 carrier of an application for coverage by the sole proprietor. The basis  
26 for computing premium payments and compensation benefits for the sole  
27 proprietor is an assumed average monthly wage of not less than ~~six hundred~~  
28 ~~dollars nor~~ \$600 OR more than the maximum wage provided by section 23-1041  
29 and is subject to the discretionary approval of the insurance carrier. Any  
30 compensation for permanent partial or permanent total disability payable to  
31 the sole proprietor shall be computed on the lesser of the assumed monthly  
32 wage agreed to by the insurance carrier on the acceptance of the

1 application for coverage or the actual average monthly wage received by the  
2 sole proprietor at the time of injury.

3 (j) A member of the Arizona national guard, Arizona state guard or  
4 unorganized militia shall be deemed a state employee and entitled to  
5 coverage under the Arizona workers' compensation law at all times while the  
6 member is receiving the payment of the member's military salary from this  
7 state under competent military orders or on order of the governor.  
8 Compensation benefits shall be based on the monthly military pay rate to  
9 which the member is entitled at the time of injury, but not less than a  
10 salary of ~~four hundred dollars~~ \$400 per month, ~~nor~~ OR more than the maximum  
11 provided by the workers' compensation law. Arizona compensation benefits  
12 shall not inure to a member compensable under federal law.

13 (k) Certified ambulance drivers and attendants who serve without pay  
14 or without full pay on a part-time basis are deemed to be employees and  
15 entitled to the benefits provided by this chapter and the basis for  
16 computing wages for premium payments and compensation benefits for  
17 certified ambulance personnel shall be ~~four hundred dollars~~ \$400 per month.

18 (l) Volunteer workers of a licensed health care institution may be  
19 deemed to be employees and entitled to the benefits provided by this  
20 chapter on written acceptance by the insurance carrier of an application by  
21 the health care institution for coverage of such volunteers. The basis for  
22 computing wages for premium payments and compensation benefits for  
23 volunteers shall be ~~four hundred dollars~~ \$400 per month.

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

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

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

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

18           (q) A working member of a limited liability company who owns less  
19           than fifty percent of the membership interest in the limited liability  
20           company.

21           (r) A working member of a limited liability company who owns fifty  
22           percent or more of the membership interest in the limited liability company  
23           may be deemed to be an employee entitled to the benefits provided by this  
24           chapter on the written acceptance, by endorsement, of an application for  
25           coverage by the working member at the discretion of the insurance carrier  
26           for the limited liability company. The basis for computing wages for  
27           premium payments and compensation benefits for the working member is an  
28           assumed average monthly wage of ~~six hundred dollars~~ \$600 or more but not  
29           more than the maximum wage provided in section 23-1041 and is subject to  
30           the discretionary approval of the insurance carrier. Any compensation for  
31           permanent partial or permanent total disability payable to the working  
32           member is computed on the lesser of the assumed monthly wage agreed to by

1 the insurance carrier on the acceptance of the application for coverage or  
2 the actual average monthly wage received by the working member at the time  
3 of injury.

4 (s) A working shareholder of a corporation who owns less than fifty  
5 percent of the beneficial interest in the corporation.

6 (t) A working shareholder of a corporation who owns fifty percent or  
7 more of the beneficial interest in the corporation may be deemed to be an  
8 employee entitled to the benefits provided by this chapter on the written  
9 acceptance, by endorsement, of an application for coverage by the working  
10 shareholder at the discretion of the insurance carrier for the  
11 corporation. The basis for computing wages for premium payments and  
12 compensation benefits for the working shareholder is an assumed average  
13 monthly wage of ~~six hundred dollars~~ \$600 or more but not more than the  
14 maximum wage provided in section 23-1041 and is subject to the  
15 discretionary approval of the insurance carrier. Any compensation for  
16 permanent partial or permanent total disability payable to the working  
17 shareholder is computed on the lesser of the assumed monthly wage agreed to  
18 by the insurance carrier on the acceptance of the application for coverage  
19 or the actual average monthly wage received by the working shareholder at  
20 the time of injury.

21 7. "General order" means an order applied generally throughout this  
22 state to all persons under jurisdiction of the commission.

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

28 9. "Insurance carrier" means every insurance carrier duly authorized  
29 by the director of insurance to write workers' compensation or occupational  
30 disease compensation insurance in this state.

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

4           11. "Mental injury, illness or condition" means any mental,  
5 emotional, psychotic or neurotic injury, illness or condition.

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

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

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

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

19           (c) An occupational disease that is due to causes and conditions  
20 characteristic of and peculiar to a particular trade, occupation, process  
21 or employment, and not the ordinary diseases to which the general public is  
22 exposed, and subject to section 23-901.01 OR 23-901.09 or, for  
23 heart-related, perivascular or pulmonary cases, section 23-1105.

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

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



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

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

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

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

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

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

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

24 Renumber to conform

25 Page 1, line 5, strike "definitions" insert "definition"

26 Line 25, strike the colon insert a comma

27 Line 26, strike "1."; strike "firefighter's or"

28 Strike lines 32 through 38

29 Line 39, strike "presumptions" insert "PRESUMPTION"; strike "are" insert "IS"

30 Lines 41 and 43, strike "firefighter or"

31 Page 2, line 1, strike "~~3. The~~" insert "3. The"; strike "~~peace officer was~~  
32 ~~exposed to a known~~"

1 Page 2, strike lines 2 through 9, insert "peace officer was exposed to a known  
2 carcinogen as defined by the international agency for research on cancer  
3 and informed the department of this exposure, and the carcinogen is  
4 reasonably related to the cancer."

5 Line 11, strike "FIREFIGHTERS OR"

6 Line 12, strike "firefighters or"

7 Line 15, strike "firefighter's or"; strike "firefighter"

8 Line 16, strike "or"

9 Lines 18 and 20, strike "firefighter's or"

10 Line 22, strike "presumptions" insert "PRESUMPTION"; strike "~~may be~~"

11 Strike lines 23 through 27, insert "may be rebutted by a preponderance of the  
12 evidence that there is a specific cause of the cancer other than an  
13 occupational exposure to a carcinogen as defined by the international  
14 agency for research on cancer."

15 Line 28, strike the colon insert a comma

16 Strike lines 29 and 30

17 Line 31, strike "2."

18 Between lines 34 and 35, insert:

19 "Sec. 3. Title 23, chapter 6, article 1, Arizona Revised Statutes,  
20 is amended by adding section 23-901.09, to read:

21 23-901.09. Presumption; cancers; firefighters and fire  
22 investigators; applicability; definitions

23 A. NOTWITHSTANDING SECTION 23-901.01, SUBSECTION A AND SECTION  
24 23-1043.01:

25 1. ANY DISEASE, INFIRMITY OR IMPAIRMENT OF A FIREFIGHTER'S OR FIRE  
26 INVESTIGATOR'S HEALTH THAT IS CAUSED BY BRAIN, BLADDER, RECTAL OR COLON  
27 CANCER, LYMPHOMA, LEUKEMIA OR ADENOCARCINOMA OR MESOTHELIOMA OF THE  
28 RESPIRATORY TRACT AND THAT RESULTS IN DISABILITY OR DEATH IS PRESUMED TO BE  
29 AN OCCUPATIONAL DISEASE AS DEFINED IN SECTION 23-901, PARAGRAPH 13,  
30 SUBDIVISION (c) AND IS DEEMED TO ARISE OUT OF EMPLOYMENT.

31 2. ANY DISEASE, INFIRMITY OR IMPAIRMENT OF A FIREFIGHTER'S OR FIRE  
32 INVESTIGATOR'S HEALTH THAT IS CAUSED BY BUCCAL CAVITY, PHARYNX, ESOPHAGUS,

1 LARGE INTESTINE, LUNG, KIDNEY, PROSTATE, SKIN, STOMACH, OVARIAN, BREAST OR  
2 TESTICULAR CANCER OR NON-HODGKIN'S LYMPHOMA, MULTIPLE MYELOMA OR MALIGNANT  
3 MELANOMA AND THAT RESULTS IN DISABILITY OR DEATH IS PRESUMED TO BE AN  
4 OCCUPATIONAL DISEASE AS DEFINED IN SECTION 23-901, PARAGRAPH 13,  
5 SUBDIVISION (c) AND IS DEEMED TO ARISE OUT OF EMPLOYMENT.

6 B. THE PRESUMPTIONS PROVIDED IN SUBSECTION A OF THIS SECTION ARE  
7 GRANTED IF ALL OF THE FOLLOWING APPLY:

8 1. THE FIREFIGHTER OR FIRE INVESTIGATOR PASSED A PHYSICAL  
9 EXAMINATION BEFORE EMPLOYMENT AND THE EXAMINATION DID NOT INDICATE EVIDENCE  
10 OF CANCER.

11 2. THE FIREFIGHTER OR FIRE INVESTIGATOR WAS ASSIGNED TO HAZARDOUS  
12 DUTY FOR AT LEAST FIVE YEARS.

13 3. FOR THE PRESUMPTION PROVIDED IN SUBSECTION A, PARAGRAPH 2 OF THIS  
14 SECTION AND FOR FIREFIGHTERS ONLY, THE FIREFIGHTER RECEIVED A PHYSICAL  
15 EXAMINATION THAT IS REASONABLY ALIGNED WITH THE NATIONAL FIRE PROTECTION  
16 ASSOCIATION STANDARD ON COMPREHENSIVE OCCUPATIONAL MEDICAL PROGRAM FOR FIRE  
17 DEPARTMENTS (NFPA 1582).

18 C. SUBSECTION A OF THIS SECTION APPLIES TO BOTH OF THE FOLLOWING:

19 1. FIREFIGHTERS OR FIRE INVESTIGATORS CURRENTLY IN SERVICE.

20 2. FORMER FIREFIGHTERS OR FIRE INVESTIGATORS WHO ARE SIXTY-FIVE  
21 YEARS OF AGE OR YOUNGER AND WHO ARE DIAGNOSED WITH A CANCER THAT IS LISTED  
22 IN SUBSECTION A OF THIS SECTION NOT MORE THAN FIFTEEN YEARS AFTER THE  
23 FIREFIGHTER'S OR FIRE INVESTIGATOR'S LAST DATE OF EMPLOYMENT AS A  
24 FIREFIGHTER OR FIRE INVESTIGATOR.

25 D. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO CANCERS OF THE  
26 RESPIRATORY TRACT IF THERE IS EVIDENCE THAT THE FIREFIGHTER'S OR FIRE  
27 INVESTIGATOR'S EXPOSURE TO CIGARETTES OR TOBACCO PRODUCTS OUTSIDE OF THE  
28 SCOPE OF THE FIREFIGHTER'S OR FIRE INVESTIGATOR'S OFFICIAL DUTIES IS A  
29 SUBSTANTIAL CONTRIBUTING CAUSE IN THE DEVELOPMENT OF THE CANCER.

30 E. THE PRESUMPTIONS PROVIDED IN SUBSECTION A OF THIS SECTION ARE  
31 CONCLUSIVE AND IRREBUTTABLE IF THE REQUIREMENTS OF SUBSECTIONS B AND C OF  
32 THIS SECTION ARE MET AND SUBSECTION D OF THIS SECTION DOES NOT APPLY.

1 F. FOR THE PURPOSES OF THIS SECTION:  
2 1. "FIREFIGHTER" MEANS A FULL-TIME FIREFIGHTER WHO WAS REGULARLY  
3 ASSIGNED TO HAZARDOUS DUTY.  
4 2. "FIRE INVESTIGATOR" MEANS A PERSON WHO IS EMPLOYED FULL-TIME BY A  
5 MUNICIPALITY OR FIRE DISTRICT AND WHO IS TRAINED IN THE PROCESS OF AND  
6 RESPONSIBLE FOR DETERMINING THE ORIGIN, CAUSE AND DEVELOPMENT OF A FIRE OR  
7 EXPLOSION."

8 Renumber to conform

9 Page 2, line 37, strike "peace officers" insert "fire investigators"

10 Page 3, line 1, strike "23-901.01, subsections B through G" insert "23-901.09"

11 Line 2, strike "amended" insert "added"

12 Line 3, strike "23-901.01" insert "23-901.09"; strike "B" insert "A"

13 Line 4, strike "peace officers'" insert "fire investigators'"

14 Line 5, strike "23-901.01" insert "23-901.09"

15 Line 6, after "subsections" insert "B,"; strike "amended" insert "added";

16 strike ", and"

17 Line 7, strike "section 23-901.01, subsection E, Arizona Revised Statutes"

18 Line 8, strike "peace officers" insert "fire investigators"

19 Line 11, strike "23-901.01, subsections B through G" insert "23-901.09"

20 Line 12, strike "amended" insert "added"

21 Amend title to conform

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