

REFERENCE TITLE: workers' compensation; benefits; volunteer posse

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1380

Introduced by
Senator Melvin

AN ACT

AMENDING SECTION 23-901, ARIZONA REVISED STATUTES; RELATING TO WORKERS'
COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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.

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

26 (i) Casual.

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

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

36 (d) Regular members of volunteer fire departments organized pursuant
37 to title 48, chapter 5, article 1, regular firemen of any volunteer fire
38 department, including private fire protection service organizations,
39 organized pursuant to title 10, chapters 24 through 40, volunteer firemen
40 serving as members of a fire department of any incorporated city or town or
41 an unincorporated area without pay or without full pay and on a part-time
42 basis, and voluntary policemen and volunteer firemen serving in any
43 incorporated city, town or unincorporated area without pay or without full
44 pay and on a part-time basis, are deemed to be employees, but for the
45 purposes of this chapter, the basis for computing wages for premium payments

1 and compensation benefits for regular members of volunteer fire departments
2 organized pursuant to title 48, chapter 5, article 1, or organized pursuant
3 to title 10, chapters 24 through 40, regular members of any private fire
4 protection service organization, volunteer firemen and volunteer policemen of
5 these departments or organizations shall be the salary equal to the beginning
6 salary of the same rank or grade in the full-time service with the city,
7 town, volunteer fire department or private fire protection service
8 organization, provided if there is no full-time equivalent then the salary
9 equivalent shall be as determined by resolution of the governing body of the
10 city, town or volunteer fire department or corporation.

11 (e) Members of the department of public safety reserve, organized
12 pursuant to section 41-1715, are deemed to be employees. For the purposes of
13 this chapter, the basis for computing wages for premium payments and
14 compensation benefits for a member of the department of public safety reserve
15 who is a peace officer shall be the salary received by officers of the
16 department of public safety for their first month of regular duty as an
17 officer. For members of the department of public safety reserve who are not
18 peace officers, the basis for computing premiums and compensation benefits is
19 four hundred dollars a month.

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

32 (g) Regular members of a volunteer sheriff's reserve, which may be
33 established by resolution of the county board of supervisors, to assist the
34 sheriff in the performance of the sheriff's official duties. A roster of the
35 current members shall monthly be certified to the clerk of the board of
36 supervisors by the sheriff and shall not exceed the maximum number authorized
37 by the board. Certified members of an authorized volunteer sheriff's reserve
38 shall be deemed to be employees of the county for the purpose of coverage
39 under the Arizona workers' compensation laws and occupational disease
40 disability laws and shall be entitled to receive the benefits of these laws
41 for any compensable injuries or disabling conditions that arise out of and
42 occur in the course of the performance of duties authorized and directed by
43 the sheriff. Compensation benefits and premium payments shall be based upon
44 the salary received by a regular full-time deputy sheriff of the county
45 involved for the first month of regular patrol duty as an officer for each

1 certified member of a volunteer sheriff's reserve. ~~This subdivision shall~~
2 ~~not be construed to provide compensation coverage for any member of a~~
3 ~~sheriff's posse who is not a certified member of an authorized volunteer~~
4 ~~sheriff's reserve except as a participant in a search and rescue mission or a~~
5 ~~search and rescue training mission.~~

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

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

31 (j) A member of the Arizona national guard, Arizona state guard or
32 unorganized militia shall be deemed a state employee and entitled to coverage
33 under the Arizona workers' compensation law at all times while the member is
34 receiving the payment of the member's military salary from the state of
35 Arizona under competent military orders or upon order of the governor.
36 Compensation benefits shall be based upon the monthly military pay rate to
37 which the member is entitled at the time of injury, but not less than a
38 salary of four hundred dollars per month, nor more than the maximum provided
39 by the workers' compensation law. No Arizona compensation benefits shall
40 inure to a member compensable under federal law.

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

1 (l) Volunteer workers of a licensed health care institution may be
2 deemed to be employees and entitled to the benefits provided by this chapter
3 upon written acceptance by the insurance carrier of an application by the
4 health care institution for coverage of such volunteers. The basis for
5 computing wages for premium payments and compensation benefits for volunteers
6 shall be four hundred dollars per month.

7 (m) Personnel who participate in a search or rescue operation or a
8 search or rescue training operation that carries a mission identifier
9 assigned by the division of emergency management as provided in section
10 35-192.01 and who serve without compensation as volunteer state employees.
11 The basis for computation of wages for premium purposes and compensation
12 benefits is the total volunteer man-hours recorded by the division of
13 emergency management in a given quarter multiplied by the amount determined
14 by the appropriate risk management formula.

15 (n) Personnel who participate in emergency management training,
16 exercises or drills that are duly enrolled or registered with the division of
17 emergency management or any political subdivision as provided in section
18 26-314, subsection C and who serve without compensation as volunteer state
19 employees. The basis for computation of wages for premium purposes and
20 compensation benefits is the total volunteer man-hours recorded by the
21 division of emergency management or political subdivision during a given
22 training session, exercise or drill multiplied by the amount determined by
23 the appropriate risk management formula.

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

29 (p) Every person employed pursuant to a professional employer
30 agreement.

31 (q) A MEMBER OF A SHERIFF'S VOLUNTEER POSSE PURSUANT TO SECTION 11-441
32 IN THE COURSE OF THE PERFORMANCE OF DUTIES AUTHORIZED AND DIRECTED BY THE
33 SHERIFF'S OFFICE IF ALL OF THE FOLLOWING APPLY:

34 (i) THE VOLUNTEER POSSE MEMBER IS IN GOOD STANDING WITH THE SHERIFF'S
35 OFFICE.

36 (ii) THE VOLUNTEER POSSE MEMBER WAS AUTHORIZED TO CARRY A WEAPON AND
37 WAS KILLED OR INJURED WHILE PERFORMING A DUTY THAT WAS AUTHORIZED AND
38 SUPERVISED BY THE SHERIFF'S OFFICE. FOR THE PURPOSES OF THIS ITEM,
39 "PERFORMING A DUTY" MEANS TRANSPORTING PRISONERS, VICTIMS OR WITNESSES,
40 CONDUCTING TRAFFIC CONTROL DUTIES, PERFORMING SECURITY FOR CRIME SCENES,
41 AIDING OR ASSISTING DEPUTIES OR OFFICERS TO PERFORM THEIR DUTIES, ASSISTING
42 DEPUTIES OR OFFICERS WITH DETENTION BOOKING PROCEDURES OR ASSISTING DEPUTIES
43 WITH SEARCH AND RESCUE OR RECOVERY MISSIONS.

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

1 8. "Heart-related or perivascular injury, illness or death" means
2 myocardial infarction, coronary thrombosis or any other similar sudden,
3 violent or acute process involving the heart or perivascular system, or any
4 death resulting therefrom, and any weakness, disease or other condition of
5 the heart or perivascular system, or any death resulting therefrom.

6 9. "Insurance carrier" means every insurance carrier duly authorized
7 by the director of insurance to write workers' compensation or occupational
8 disease compensation insurance in the state of Arizona.

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

12 11. "Mental injury, illness or condition" means any mental, emotional,
13 psychotic or neurotic injury, illness or condition.

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

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

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

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

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

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

32 (a) In which the professional employer organization expressly agrees
33 to co-employ all or a majority of the employees providing services for the
34 client. In determining whether the professional employer organization
35 employs all or a majority of the employees of a client, any person employed
36 pursuant to the terms of the professional employer agreement after the
37 initial placement of client employees on the payroll of the professional
38 employer organization shall be included.

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

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

43 15. "Professional employer organization" means any person engaged in
44 the business of providing professional employer services. Professional

1 employer organization does not include a temporary help firm or an employment
2 agency.

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

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

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

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

17 Sec. 2. [Effective date](#)

18 This act is effective from and after December 31, 2013.