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PUBLIC LAW ALERT

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Governor Signs AB 220, Firefighters Procedural Bill of Rights Act

The Firefighters Procedural Bill of Rights Act (AB 220 - Bass) was signed into law by the Governor on October 13, 2007 and takes effect January 1, 2008. AB 220 gives firefighters the same protections afforded law enforcement officers under the Public Safety Officers Procedural Bill of Rights Act, despite the fact that firefighters are not subject to investigations and interrogations to the same extent as police officers. In addition, the Legislature estimates that compliance with AB 220 will cost local agencies \$1.3 million annually, some of which may be reimbursed as a state-mandated program. AB 220 was opposed by both the California State Association of Counties and the League of California Cities. Interestingly, the bill passed the Assembly with full Republican support.

Who Does AB 220 Cover?

- Defines “firefighter” as any firefighter employed by a public agency, including paramedics and emergency medical technicians.

What Does AB 220 Do?

- Establishes rules governing firefighter political activity;
- Establishes rules governing investigations and interrogations that may lead to punitive action against firefighters;
- Provides for sanctions against a firefighter who files a frivolous claim under the Act as well as a civil penalty of \$25,000 against an employer that maliciously violates the Act;
- Provides for state reimbursement of actual costs of complying with the Act, but not for costs of investigation and disciplinary procedures pursuant to an existing local regulation, rule, ordinance, or memorandum of understanding.

What Does AB 220 Require?

- Requires the employing agency to complete its investigation and notify the firefighter of proposed discipline within one year of discovering the alleged misconduct;
- Requires the employing agency to provide for an administrative appeal of any non-merit based punitive action against a firefighter;

- Requires the employing agency to give the firefighter the opportunity to read and sign any adverse comment before it is entered in the firefighter's personnel file;
- Requires the employing agency to allow a firefighter, upon request, to review his or her personnel file and to request removal of any material mistakenly or unlawfully in the file.

What Does AB 220 Prohibit?

- Prohibits a firefighter from being compelled to take a lie detector test and bars disciplinary action if the firefighter refuses to submit to one voluntarily;
- Prohibits searching a firefighter's locker or other storage space except in the firefighter's presence, with the firefighter's consent, or if a valid search warrant has been obtained.

What Should Public Agencies Do Before January 1, 2008?

- Review disciplinary policies and procedures, both in the agency's local rules and in any applicable MOUs, to determine what changes, if any, are necessary to comply with the Act;
- If any changes must be made in the local rules or any MOU, the public agency likely will have to provide notice to the affected union(s) and provide the opportunity to meet and confer over the effects, if any, of the changes;
- Keep in mind that some of the costs for complying with the Act may be reimbursable as a state mandated program; compliance costs will be driven in part by existing policies and procedures, so careful consideration should be given before implementing changes to those policies.

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