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HOUSE BILL 40

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO EMERGENCIES; PROVIDING THAT A HEALTH PROFESSIONAL VOLUNTEER DEPLOYED BY THE DEPARTMENT OF HEALTH TO RESPOND TO A DECLARED EMERGENCY SHALL BE CONSIDERED A PUBLIC EMPLOYEE FOR PURPOSES OF THE WORKERS' COMPENSATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-3.1 NMSA 1978 (being Laws 1979, Chapter 199, Section 2, as amended) is amended to read:

"52-1-3.1. PUBLIC EMPLOYEE.--

A. As used in the Workers' Compensation Act, unless otherwise provided, "public employee" means any person receiving a salary from, and acting in the service of, the state or any county, municipality, school district, drainage, irrigation or conservancy district, public institution or administrative board, including elected or appointed public

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1 officers.

2 B. "Public employee" includes a volunteer health
3 professional deployed by the department of health within New
4 Mexico in response to a declared public emergency or public
5 health emergency or deployed by the department of health
6 outside New Mexico in response to a request for emergency
7 health personnel made pursuant to the Emergency Management
8 Assistance Compact; provided that, for purposes of the Workers'
9 Compensation Act:

10 (1) the department of health shall be
11 considered to be the employer of the person;

12 (2) the person's average weekly wage, for the
13 purpose of calculating compensation, shall be considered to be
14 the average weekly wage for similar services performed by paid
15 workers in like employment; and

16 (3) the person shall not be considered an
17 employee in the calculation of any fee pursuant to Section
18 52-5-19 NMSA 1978.

19 C. [The term] "Public employee" does not include an
20 independent contractor."

21 Section 2. Section 52-1-64 NMSA 1978 (being Laws 1975,
22 Chapter 241, Section 1, as amended) is amended to read:

23 "52-1-64. EXTRA-TERRITORIAL COVERAGE.--If an employee,
24 while working outside the territorial limits of this state,
25 suffers an injury on account of which [he] the employee or, in

.159688.2

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1 the event of [~~his~~] the employee's death, [~~his~~] the employee's
2 dependents would have been entitled to the benefits provided by
3 the Workers' Compensation Act, had such injury occurred within
4 this state, [~~such~~] the employee or, in the event of [~~his~~] the
5 employee's death resulting from [~~such~~] the injury, [~~his~~] the
6 employee's dependents shall be entitled to the benefits
7 provided by that act; provided that at the time of [~~such~~] the
8 injury:

9 A. [~~his~~] the employee's employment is principally
10 localized in this state;

11 B. [~~he~~] the employee is working under a contract of
12 hire made in this state in employment not principally localized
13 in any state;

14 C. [~~he~~] the employee is working under a contract of
15 hire made in this state in employment principally localized in
16 another state whose workers' compensation law is not applicable
17 to [~~his~~] the employee's employer; [~~or~~]

18 D. [~~he~~] the employee is working under a contract of
19 hire made in this state for employment outside the United
20 States and Canada; or

21 E. the employee is a volunteer health professional
22 deployed outside this state by the department of health in
23 response to a request for emergency health personnel made
24 pursuant to the Emergency Management Assistance Compact."