WORKERS' COMPENSATION APPEALS BOARD

STATE OF CALIFORNIA

JENNIFER MCGILL, *Applicant*

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT, administered by STATE COMPENSATION INSURANCE FUND, *Defendant*

Adjudication Number: ADJ22247953
Santa Rosa District Office

OPINION AND ORDER DENYING PETITION FOR RECONSIDERATION

Defendant Sonoma-Marin Area Rail Transit District (SMART) seeks reconsideration of the Findings and Award (F&A) issued by a workers' compensation administrative law judge (WCJ) on July 22, 2026, wherein the WCJ found, in pertinent part, that applicant, while employed as a police chief during a cumulative trauma period through November 12, 2025, sustained injury arising out of and in the course of employment (AOE/COE) to her psyche, and that applicant is entitled to the benefits under Labor Code section 4850.[1]

Defendant contends that because applicant's job title and classification are not specifically identified under section 4850(b), she is not an eligible public employee and is not entitled to benefits.

We received an Answer from applicant, and a Report and Recommendation on Petition for Reconsideration (Report) from the WCJ, recommending that we deny reconsideration.

We have considered the allegations of the Petition for Reconsideration, the Answer and the contents of the Report. Based on our review of the record, and for the reasons set forth by the WCJ in the Report, as well as the reasons discussed below, we will deny reconsideration.

FACTS

The WCJ's Report summarizes the salient facts as follows:

> Applicant Jennifer McGill, while employed as a sworn peace officer for SMART, sustained [an] admitted injury to her psyche on a CT basis through

[1] All further statutory references are to the Labor Code unless otherwise specified.

November 12, 2025. (MOH/SOE, p. 2, lines 8-13). Applicant's accepted psychiatric claim was pled as the result of "responding to multiple fatalities in less than eight (8) years." (Def. Exh. B.)

As Chief of Police, the applicant engages in the following relevant job duties: infrastructure protection, passenger protection, threat assessment, accident investigation, and criminal investigations. (Joint Exh. 1.) The applicant is responsible for overseeing all aspects of public safety at SMART. (Id.) The applicant carries a firearm as part of her job, wears a gun belt and is trained to use lethal force if necessary. (Id.) She also serves as the lead investigator for all rail fatalities. (Id.) Applicant's job duties are not contested by Defendant-Petitioner.

The undersigned WCJ found that the legislative intent behind Labor Code section 4850, and case law stemming therefrom, would qualify the applicant for 4850 benefits. It is from this Findings & Award that defendant seeks reconsideration.

(Report, pp. 1-2.)

DISCUSSION

I

Petitions for reconsideration filed on or after July 14, 2026 are subject to section 5909, which states that:

> (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
>
> (b)(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
>
> (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase "Sent to Recon" and under Additional Information is the phrase "The case is sent to the Recon board."

Here, according to Events, the case was transmitted to the Appeals Board on August 24 2026, and 60 days from the date of transmission is October 23, 2026. This decision is issued by or on October 23, 2026, so that we have timely acted on the Petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

Here, according to the proof of service for the Report, the Report was served on August 24, 2026, and the case was transmitted to the Appeals Board on August 24, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on August 24, 2026.

II

Section 4850 provides in relevant part as follows:

> (a) Whenever any person listed in subdivision (b), who is employed on a regular, full-time basis, and is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of the person's duties, the person shall become entitled, regardless of the person's period of service with the city, county, or district, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments or maintenance allowance payments, if any, that would be payable under this chapter, for the period of the disability, but not exceeding one year, or until that earlier date as the person is retired on permanent disability pension, and is actually receiving disability pension payments, or advanced disability pension payments pursuant to Section 4850.3.
>
> (b) The persons eligible under subdivision (a) include all of the following:
>
> (1) City police officers.
>
> (2) City, county, or district firefighters.
>
> (3) Sheriffs.
>
> (4) Officers or employees of any sheriff's offices.
>
> (5) Inspectors, investigators, detectives, or personnel with comparable titles in any district attorney's office.
>
> (6) County probation officers, group counselors, or juvenile services officers.
>
> (7) Officers or employees of a probation office.

(8) Peace officers under Section 830.31 of the Penal Code employed on a regular, full-time basis by a county of the first class.

(9) Lifeguards employed year round on a regular, full-time basis by a county of the first class or by the City of San Diego.

(10) Airport law enforcement officers under subdivision (d) of Section 830.33 of the Penal Code.

(11) Harbor or port police officers, wardens, or special officers of a harbor or port district or city or county harbor department under subdivision (a) of Section 830.1 or subdivision (b) of Section 830.33 of the Penal Code.

(12) Police officers of the Los Angeles Unified School District.

(13) Peace officers, as defined in subdivision (b) of Section 830.31 of the Penal Code, who are employed on a regular, full-time basis by a county of the eighth class as defined by Sections 28020 and 28029 of the Government Code.

(c) This section shall apply only to persons listed in subdivision (b) who meet the requirements of subdivision (a), and shall not include any of the following:

(1) Employees of a police department whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active law enforcement service.

(2) Employees of a county sheriff's office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service.

(3) Employees of a county probation office whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service.

(4) Employees of a city fire department, county fire department, or fire district whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of active firefighting and prevention service.

(Lab. Code, § 4850.)

The WCJ explains the application of section 4850 in her Report:

Labor Code section 4850 is intended to compensate certain public employees in high-risk jobs. (*Gamble v. WCAB* (2006) 71 CCC 1015, 1029.) As stated by the Court of Appeal, "The reason for such exceptional treatment of policemen and firemen is obvious: not only are their occupations particularly hazardous, but they undertake these hazards on behalf of the public. The Legislature undoubtedly sought to ensure that policemen and firemen would not be deterred from zealous performance of their mission while protecting the public by fear of loss of livelihood." (*Kimball v. County of Santa Clara* (1972) 37 CCC 937, 939; *Charles v.*

*WCAB (*1988) 53 CCC 304; *Biggers v. WCAB (*1999) 64 CCC 19 all quoting 51 Ops. Cal. Atty. Gen. 32, 34 (April 4, 1968).

Petitioner asserts that Labor Code section 4850 is clear on its face as to which job classifications are covered under subsection (b), and police officers of SMART are not included in one of the thirteen enumerated categories. However, since the enactment of Labor Code section 4850, case law has frequently applied Labor Code section 4850 benefits to jobs outside of subsection (b).

The court has held that public safety workers who perform some of the duties of law enforcement officers and firefighters, and who assume some of the physical and emotional risks encountered by the covered employees are entitled to benefits under Labor Code section 4850. (See *Charles v. WCAB* (1988) 53 CCC 304). The law enforcement service envisioned by Labor Code section 4850 is performed by the employee and not simply in the job description. (*Kimball v. County of Santa Clara* (1972) 37 CCC 937, 940). So, it is permissible to look beyond an employee's title and determine Labor Code section 4850 eligibility based on the employee's job duties. (See *County of Los Angeles/USC Medical Center v. WCAB* (*Garcia*) (1998) 63 CCC 1275 (writ denied)). It is a fact-specific inquiry that requires the court to look at an employee's various job duties to determine whether they fall within the scope of active law enforcement or active firefighting.

In the case at hand, Petitioner has offered no new argument or evidence on reconsideration. As such, the undersigned WCJ continues to find that the Chief of Police employed by SMART, is entitled to the benefits under Labor Code section 4850. While the applicant does not work directly for the city, county, district, or sheriff's office, the legislative intent behind Labor Code section 4850, and the case law stemming therefrom, support Applicant's entitlement to 4850 benefits.

Report, pp. 2-3.)

We agree with the reasoning of the WCJ and note that in *San Diego Unified School Dist. v. Workers' Comp. Appeals Bd.* (*Elmore*) (2001) 66 Cal.Comp.Cases 1141 (writ denied), benefits under section 4850 were extended to a school district police officer, which is likewise not one of the enumerated categories of persons eligible for benefits under section 4850(b). In that case, as with applicant in the present case, the operative fact in determining eligibility for benefits under section 4850 was that the employee was performing peace officer duties.

Here, applicant's Job Description clearly indicates that applicant's position was not just an office job that would be excluded under section 4850(c), but also included field work as an active law enforcement officer. (Joint Exhibit 1, Job Description dated November 25, 2025, p. 4.) Defendant's reference to *California Horse Racing Bd. v. Workers' Comp. Appeals Bd* (*Snezek*) (2007) 153 Cal. App. 4th 1169 (writ denied) is unavailing, as that case did not involve entitlement to benefits under section 4850 but the heart trouble presumption under section 3212, and the

employee in question was not a police chief but a special investigator for the California Horse Racing Board. In the present case, we are persuaded that applicant is entitled to benefits under section 4850.

Accordingly, we deny the Petition for Reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration of the Findings and Award issued by the WCJ on July 22, 2026 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 23, 2026

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

JENNIFER MCGILL
BROWN & DELZELL, LLP
STATE COMPENSATION INSURANCE FUND

CWF/*cs*

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date.
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