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OPINION	:	No. 03-301
of	:	June 20, 2003
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THE HONORABLE LOU CORREA, MEMBER OF THE STATE ASSEMBLY, has requested an opinion on the following question:

Is a person employed as a trainee by a fire department to provide firefighting services entitled to the enhanced benefits granted by the Workers' Compensation Law for "firefighters"?

CONCLUSION

A person employed as a trainee by a fire department to provide firefighting services is entitled to the enhanced benefits granted by the Workers' Compensation Law for "firefighters."

ANALYSIS

Under the Constitution, the Legislature is granted "plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. . . ." (Cal. Const., art. XIV, § 4.) The Legislature has exercised this express grant of constitutional authority by enacting the Workers' Compensation Act (Lab. Code, §§ 3200-6002; "Act").[1] (See *City etc. of San Francisco v. Workmen's Comp. App. Bd.* (1970) 2 Cal.3d 1001, 1008.)

The purposes of the Act are: "(1) to ensure that the cost of industrial injuries will be part of the cost of goods rather than a burden on society, (2) to guarantee prompt, limited compensation for an employee's work injuries, regardless of fault, as an inevitable cost of production, (3) to spur increased industrial safety, and (4) in return, to insulate the employer from tort liability for his employees' injuries." (*S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341, 354.) The Legislature has directed that the Act "be liberally construed by the courts with the purpose of extending [its] benefits for the protection of persons injured in the course of their employment." (§ 3202; see *Laeng v. Workmen's Comp. Appeals Bd.* (1972) 6 Cal.3d 771, 777-778; *Woodline Furniture Mfg. Co. v. Department of Industrial Relations* (1994) 23 Cal.App.4th 1653, 1660.)

The question presented for resolution concerns whether a person employed as a trainee by a fire department to provide firefighting services qualifies for the special benefits granted to "firefighters" under the Act. We conclude that a trainee so qualifies.

Undoubtedly, a trainee is deemed to be an "employee" under the Act, and, as such, is entitled to the general coverage of the Act (§ 3600) when providing firefighting services for a fire department. (§§ 3351 [" 'Employee' means every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written . . ."], 3357 ["Any person rendering service for another, other than as an independent contractor, or unless expressly excluded herein, is presumed to be an employee"]; see *Laeng v. Workmen's Comp. Appeals Bd., supra,* 6 Cal.3d at pp. 776-780.) As a "firefighter," however, he or she would be entitled to additional benefits "justified by the peculiarly hazardous character of the work of a fireman . . . ." (*City etc. of San Francisco v. Workmen's Comp. App. Bd., supra,* 2 Cal.3d at p. 1011.) For example, certain presumptions regarding injuries are applicable to firefighters (§§ 3212, 3212.1), enhanced

[1] All references hereafter to the Labor Code are by section number only.

benefits are given to spouses of firefighters under specified conditions (§ 4856), and certain expanded coverage is provided to firefighters that is not available to other employees (§ 3600.1).

The key statute requiring our interpretation is section 3211.5, which defines a "firefighter" for purposes of the Act as follows:

> "For purposes of [the Act], whenever the term 'firefighter,' 'firefighting member,' and 'member of a fire department' is used, the term shall include, but shall not be limited to, unless the context expressly provides otherwise, a person engaged in providing firefighting services who is an apprentice, volunteer, or employee on a partly paid or fully paid basis."

In construing the language of section 3211.5, we note first that the phrase "shall include, but shall not be limited to" is a phrase of enlargement. (See *Dyna-Med. Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1389.) At the time section 3211.5 was enacted in 2002 (Stats. 2002, ch. 870, § 2), the legislative committee reports concerning the proposed legislation made clear that the legislation was intended to "[expand] certain provisions of existing workers' compensation law applicable to firefighters to also apply to persons engaged in providing firefighting services who are apprentices, volunteers, or employees on a partly paid or fully paid basis." (Assem. Com. on Public Employees, Retirement and Social Security, Rep. on Assem. Bill No. 1847 (2001-2002 Reg. Sess.) as amended Mar. 12, 2002, p. 1; see also Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 1847 (2001-2002 Reg. Sess.) as amended Apr. 17, 2002, p. 3.) Construing the term "firefighter" to include a trainee employed to provide firefighting services would be in keeping with the expansive language of the statute.

It is evident that the most significant phrase of section 3211.5 is: "a person engaged in providing firefighting services." Such activity qualifies the person as a "firefighter" under the statutory definition, which includes not only persons who are employees, such as the trainee in question, but also persons who are apprentices, volunteers, and others ("shall not be limited to"). The only statutory limitation is "unless the context expressly provides otherwise."[2]

Hence, we would have little difficulty in reaching a conclusion here if the

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[2] Of course, if the person is not "engaged in providing firefighting services," section 3211.5 is inapplicable. (See *City of Sacramento v. Workers' Comp. Appeals Bd.* (2002) 94 Cal.App.4th 1304, 1307-1310.)

language of section 3211.5 stood alone. However, it has been suggested that section 3211.5 must be read in the context of section 3077, which defines an "apprentice" as follows:

> "The term 'apprentice' as used in this chapter, means a person at least 16 years of age who has entered into a written agreement, in this chapter called an 'apprentice agreement,' with an employer or program sponsor. The term of apprenticeship for each apprenticeable occupation shall be approved by the chief, and in no case shall provide for less than 2,000 hours of reasonably continuous employment for such person and for his or her participation in an approved program of training through employment and through education in related and supplemental subjects."

It is suggested that unless a "trainee" qualifies as an "apprentice" under the terms of section 3077, he or she cannot come within the definition of a "firefighter" set forth in section 3211.5. We reject the suggestion for a number of reasons.

First, section 3077 is not part of the Act. When it refers to the definition of apprentice "as used in this chapter," it is referring only to sections 3070-3099.5. Accordingly, that restrictive definition cannot be read to "limit, change, or in any way qualify the provisions of" section 3211.5. (§ 2700.)

Second, the term "apprentice" is generally understood to include "one who is learning by practical experience under skilled workers a trade, art, or calling, usually for a prescribed period of time and at a prescribed rate of pay . . . ." (Webster's 3d New Internat. Dict. (1986) p. 106.) Such an accepted definition would describe a trainee employed by a fire department to provide firefighting services. A statute is to be construed " 'so as to effectuate the purpose of the law' " (*Curle v. Superior Court, supra,* 24 Cal.3d at p. 1063), by giving the words " 'the meaning they bear in ordinary use' " (*Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 977).

Finally, we are mindful of the requirement that, when construing a statute, we must "avoid an interpretation that would lead to absurd consequences." (*People v. Jenkins* (1995) 10 Cal.4th 234, 246.) Here, where the Act expressly provides that even one who is a volunteer qualifies as a "firefighter" under the terms of section 3211.5, it would be unreasonable to conclude that a paid trainee employed to provide firefighting services does not qualify unless he or she is in an approved apprenticeship program described in section 3077. This conclusion is further compelled by the Legislature's directive, noted above, that section 3211.5 is to be "liberally construed . . . for the protection of persons injured in the course of their employment." (§ 3202.)

We conclude that a person employed as a trainee by a fire department to

provide firefighting services is entitled to the enhanced benefits of the Act for "firefighters."

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