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**Labor & Workforce Development  
Committee**

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**HB 1445**

**Brief Description:** Adding heart attacks and strokes as presumptions of occupational disease for law enforcement officers and firefighters.

**Sponsors:** Representatives Van De Wege, Rodne, Pettigrew, Upthegrove, Liias, Maxwell, Reykdal, Stanford, Orwall, Sullivan, Sells, Hurst, Fitzgibbon, Kelley and Ormsby; by request of Law Enforcement Officers and Fire Fighters' Plan 2 Retirement Board.

**Brief Summary of Bill**

- Adds strokes that occur under certain conditions to the diseases that are presumptive occupational diseases for industrial insurance purposes for most firefighters.
- Creates a presumption that death from a heart attack or stroke that occurs under certain conditions is an occupational injury for industrial insurance purposes for most law enforcement officers.

**Hearing Date:** 1/28/11

**Staff:** Joan Elgee (786-7106).

**Background:**

A worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to industrial insurance benefits. To prove an occupational disease, the worker must show that the disease arose "naturally and proximately" out of employment.

Firefighters.

For firefighters who are members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) and certain private sector firefighters, there is a prima facie presumption that the following are occupational diseases: respiratory disease, certain heart problems, specified cancers, and infectious diseases. With respect to heart problems, the

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problems must be experienced within 72 hours of exposure to smoke, fumes, or toxic substances; or experienced within 24 hours of strenuous physical exertion due to firefighting activities.

The presumption of occupational disease may be rebutted by a preponderance of evidence, including, but not limited to: use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or non-employment activities. In addition, the presumption does not apply to a firefighter who develops a heart or lung condition and who is a regular user of tobacco products or who has a history of tobacco use.

With respect to public sector firefighters, only members of LEOFF Plan 2 are eligible for industrial insurance.

#### Law enforcement officers.

No industrial insurance presumptions apply to law enforcement personnel.

Under the federal Public Safety Officers' Benefits (PSOB) Act, survivors of a public safety officer who died as a direct and proximate result of a line of duty injury are entitled to certain death benefits. An officer who dies from a heart attack or stroke is presumed to have died as a result of a line of duty personal injury under certain circumstances.

With respect to LEOFF, only members of LEOFF Plan 2 (those hired on or after October 1, 1997) are covered by industrial insurance.

#### **Summary of Bill:**

##### Firefighters.

Strokes are added to the presumptive occupational diseases for firefighters for purposes of industrial insurance. The criteria applicable to heart problems apply to strokes; that is, the stroke must be experienced within 72 hours of exposure to smoke, fumes, or toxic substances; or experienced within 24 hours of strenuous physical exertion due to firefighting activities.

##### Law enforcement officers.

An industrial insurance presumption is created for law enforcement members of LEOFF or a member of the Washington State Patrol Retirement System (WSPRS). A member who dies as the direct and proximate result of a heart attack or stroke is presumed to have died of an injury sustained in the course of employment under certain circumstances. The presumption applies if the officer, while on duty, was involved in specified activities and died as a result of a heart attack or stroke suffered no later than 24 hours after being involved in the activities. The law enforcement officer must have:

- engaged in a situation, and the engagement involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity;
- participated in a training exercise which involved nonroutine stressful or strenuous physical activity; or
- responded to a fire, rescue, or police emergency.

The presumption may be overcome by competent medical evidence.

Definitions are provided. "Nonroutine stressful physical activity" means activity that is:

- not performed as a matter of routine;
- entails nonnegligible physical activity; and
- occurs with respect to a situation under circumstances that objectively and reasonably:
  - pose significant dangers, threats, or hazards (or reasonably foreseeable risks) not faced by similarly situated members of the public and provoke, cause, or occasion an unusually high level of alarm, fear, or anxiety; or
  - with respect to a training exercise, simulate in realistic fashion situations that pose significant dangers, threats, or hazards, and provoke, cause, or occasion an unusually high level of alarm, fear, or anxiety.

"Nonroutine strenuous physical activity" means activity that is not performed as a matter of routine and that entails an unusually high level of physical exertion. Actions of a clerical, administrative, or nonmanual nature are not included.

"Routine" means that the level of stress is routine and not simply that the activity itself is performed with some regularity.

The criteria are similar to the criteria that must be met for the presumption under the PSOB Act to apply.

The provisions apply retroactively to January 1, 2010.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.