

# SENATE BILL REPORT

## SB 5354

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As of January 30, 2011

**Title:** An act relating to presumptions of occupational disease for law enforcement officers and firefighters.

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

**Sponsors:** Senators Hargrove, Roach, Kilmer, Keiser, Kohl-Welles, McAuliffe and Conway; by request of Law Enforcement Officers and Fire Fighters' Plan 2 Retirement Board.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 1/31/11.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Mac Nicholson (786-7445)

**Background:** Survivors of employees who die as a result of a work related injury or occupational disease are eligible to receive benefits under the state Industrial Insurance Program. The determination of whether the death occurred as a result of an injury sustained in the course of employment is made by the Department of Labor and Industries (L&I) and is based on relevant statutory and case law. If L&I determines the death was work related, the claim will be allowed and the surviving spouse will receive a monthly benefit ranging from 60 to 70 percent of the wages of the deceased worker, which is discontinued upon remarriage.

The survivors of employees covered by the Law Enforcement Officers and Fire Fighters Retirement System (LEOFF) and Washington State Patrol Retirement System (WSPRS) are also eligible for benefits under the respective retirement plans when a member dies as a result of a work related injury. L&I's determination about whether the death was caused by a work related injury under industrial insurance is used to establish eligibility for death benefits under the LEOFF 2 and WSPRS plans.

Surviving spouses of employees who meet the federal definition of public safety officers, including some members of LEOFF and WSPRS are eligible under the federal Public Safety Officers Benefit Act of 1976 (PSOB) for a death benefit when the public safety officer died in the line of duty.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

An occupational disease is defined in statute as a disease or infection that arises naturally and proximately out of employment. Certain health conditions, when suffered by firefighters, are presumed to be occupational diseases for industrial insurance purposes. These conditions include respiratory disease, heart problems experienced within certain time frames, cancer, and infectious diseases. The presumption of occupational disease may be rebutted by a preponderance of the evidence.

**Summary of Bill:** A law enforcement officer covered by LEOFF or a member of WSPRS who dies as the direct and proximate result of a heart attack or stroke is presumed to have died as the direct and proximate cause of a work related injury for industrial insurance purposes. This presumption exists where the law enforcement officer:

- engaged in certain activities while on duty;
- died from a heart attack or stroke that occurred on duty while, or after, engaging in one of the activities, or within 24 hours of engaging in one of the activities; and
- the presumption is not overcome by competent medical evidence to the contrary.

For firefighters, it will be presumed that a stroke is an occupational disease if it experienced within 72 hours of exposure to smoke, fumes, or toxic substances, or within 24 hours of strenuous physical exertion due to firefighting activities.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2010.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill applies retroactively to January 1, 2010.