

SENATE BILL REPORT

SB 5507

As of February 5, 2019

Title: An act relating to amending the application of the occupational disease presumption for cancer for Hanford site workers.

Brief Description: Amending the application of the occupational disease presumption for cancer for Hanford site workers.

Sponsors: Senators Keiser and Conway; by request of Attorney General.

Brief History:

Committee Activity: Labor & Commerce: 1/24/19.

Brief Summary of Bill

- Modifies the presumption of occupational disease for industrial insurance established for cancer to apply to certain Hanford site workers who have cancer that develops or manifests itself and who were not given a qualifying medical examination because it was not required.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Susan Jones (786-7404)

Background: Under the state's Industrial Insurance Act, employers must insure through the state fund administered by the Department of Labor and Industries (L&I) or may self-insure, if qualified. Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to benefits. Depending on the injury or disability, workers are entitled to medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for permanent disabilities. Occupational disease means such disease or infection as arises naturally and proximately out of employment.

Through a special agreement with L&I, the United States Department of Energy (DOE) operates as a self-insured employer for the purposes of providing coverage for workers of contractors at the Hanford Nuclear Reservation. In addition, there are federal programs that provide compensation to certain DOE workers.

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.

For DOE Hanford site workers, there is a prima facie presumption that certain diseases and conditions are occupational diseases. The DOE Hanford site workers includes any person, including a contractor or subcontractor, who was engaged in the performance of work, either directly or indirectly, for the United States, regarding projects and contracts at the Hanford nuclear site and who worked on the site at the two hundred east, two hundred west, three hundred area, environmental restoration disposal facility site, central plateau, or the river corridor locations for at least one eight-hour shift while covered under the Industrial Insurance Act.

The presumption extends to a DOE Hanford site worker following termination of service for the lifetime of that individual. A worker or the survivor of a worker who has died as a result of one of the conditions or diseases and whose claim was denied by an L&I order, the Board of Industrial Insurance Appeals, or a court, may file a new claim. This applies to decisions made after June 7, 2018, without regard to the date of last injurious exposure or claim filing.

This presumption of occupational disease may be rebutted by clear and convincing evidence. This evidence may include the use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

The prima facie presumption applies to the following diseases and conditions:

- respiratory disease;
- any heart problems, experienced within 72 hours of exposure to fumes, toxic substances, or chemicals at the site;
- certain cancers;
- beryllium sensitization, and acute and chronic beryllium disease; and
- neurological disease.

The presumption applies to the following cancers:

- leukemia;
- certain primary or secondary lung cancer;
- certain primary or secondary bone cancer;
- primary or secondary kidney cancer;
- lymphomas, other than Hodgkin's disease;
- Waldenstrom's macroglobulinemia and mycosis fungoides; and
- primary cancer of the thyroid, breast, esophagus, stomach, pharynx, small intestine, pancreas, bile ducts, gall bladder, salivary gland, urinary bladder, brain—with limitations; colon, ovary, and liver—with limitations.

The presumption established for cancer only applies to any active or former DOE Hanford site worker who:

- has cancer that develops or manifests itself; and
- was given a qualifying medical examination upon becoming a DOE Hanford site worker that showed no evidence of cancer.

Summary of Bill: The presumption established for cancer is modified to also apply to any active or former DOE Hanford site worker who has cancer that develops or manifests itself and who was not given a qualifying medical examination because a qualifying medical examination was not required.

Appropriation: None.

Fiscal Note: Requested on January 23, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Our state owes a debt of gratitude to the Hanford workers who have both difficult and dangerous jobs. The Legislature is commended for the legislation passed last session regarding the occupational disease that helps provide the workers with benefits they have earned. This technical bill just builds on the bill passed last session and ensures that no worker is denied the cancer presumption under current law due to the lack of a qualifying exam. As the implementation of last session's bill began, it became clear that years ago, a qualifying medical exam was not always required. The bill will also prevent an employer from choosing not to give a medical exam and using that fact to exclude a worker from the presumption.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Nickolas Bumpaous, UA Plumbers & Steamfitters Local 598; Mike Webb, Chief of Staff, Washington Attorney General.

Persons Signed In To Testify But Not Testifying: No one.