

# HOUSE BILL REPORT

## HB 1655

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**As Reported by House Committee On:**  
Labor & Workplace Standards  
Appropriations

**Title:** An act relating to providing industrial insurance coverage for stress-caused mental disorders and disabilities of members of the law enforcement officers' and firefighters' retirement system.

**Brief Description:** Providing industrial insurance coverage for stress-caused mental disorders and disabilities of members of the law enforcement officers' and firefighters' retirement system.

**Sponsors:** Representatives Lovick, Holy, Griffey, Hayes, Sells, Doglio, Stokesbary, Frame, Irwin, Fitzgibbon, Pike, Fey, Goodman, Pollet and Stanford.

**Brief History:**

**Committee Activity:**

Labor & Workplace Standards: 2/9/17, 2/14/17 [DP];

Appropriations: 2/22/17, 2/23/17 [DPS].

**Brief Summary of Substitute Bill**

- Provides that the exclusion for stress-caused mental conditions or disabilities from industrial insurance occupational disease does not apply to members of the Law Enforcement Officers' and Firefighters' Retirement System (LEOFF).

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### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass. Signed by 5 members: Representatives Sells, Chair; Gregerson, Vice Chair; Doglio, Frame and Pike.

**Minority Report:** Do not pass. Signed by 1 member: Representative Manweller, Ranking Minority Member.

**Minority Report:** Without recommendation. Signed by 1 member: Representative McCabe, Assistant Ranking Minority Member.

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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.*

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

**Background:**

Under the state's industrial insurance laws, a worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to certain benefits. An "occupational disease" is one that arises naturally and proximately out of employment. Claims based on mental conditions or mental disabilities caused by stress are specifically excluded. Rules adopted by the Department of Labor and Industries provide examples of excluded conditions, including:

- conditions or disabilities resulting from relationships with supervisors, coworkers, or the public;
- work load pressures;
- fear of exposure to hazards; or
- objective or subjective stresses of employment.

In contrast, stress resulting from exposure to a single traumatic event, such as actual or threatened death, assault, or life-threatening injury, may constitute an industrial injury. The exposure may be from directly experiencing the event, witnessing it, or having extreme exposure to aversive details of the traumatic event.

The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) provides payment of death, disability, and retirement benefits to law enforcement officers and firefighters. "Law enforcement officer" includes full-time commissioned county sheriffs, deputy sheriffs, and city police. "Firefighter" includes full-time city and county firefighters, city and county firefighter supervisory personnel, and full-time city and county emergency medical technicians (EMTs).

For firefighters who are members of LEOFF (but not EMTs) and some private sector firefighters, there is a presumption that certain medical conditions are occupational diseases. Those conditions are: respiratory disease; certain heart problems; specified cancers; and certain infectious diseases. The presumption of occupational disease may be rebutted by a preponderance of evidence, including: use of tobacco products; physical fitness and weight; lifestyle; hereditary factors; and exposure from other employment or nonemployment 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.

According to the National Center for PTSD (posttraumatic stress disorder) within the United States Department of Veterans Affairs, PTSD may occur when a person is exposed to death or threatened death, or actual or threatened serious injury or sexual violence by: direct exposure, witnessing the event, learning that a close relative or friend was exposed to trauma, or from repeated or extreme indirect exposure, usually in the course of professional duties. To be diagnosed with PTSD, an adult must have all of the following for at least one month:

- at least one re-experiencing symptom, such as flashbacks;
- at least one avoidance symptom, such as staying away from places that are reminders;
- at least two arousal and reactivity symptoms, such as difficulty sleeping and being easily startled; and

- at least two cognition and mood symptoms, such as negative thoughts, and distorted feelings of blame.
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**Summary of Bill:**

For purposes of industrial insurance occupational disease claims, the exclusion for mental conditions or disabilities caused by stress does not apply to members of the LEOFF.

Posttraumatic stress disorder is added to the medical conditions that are presumptive occupational diseases. The presumption applies to law enforcement officers who are members of the LEOFF, LEOFF-member firefighters who are entitled to the occupational disease presumption, and EMTs who are members of the LEOFF.

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**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.

**Staff Summary of Public Testimony:**

(In support) Law enforcement officers and firefighters are exposed to repeated traumatic events. You cannot "unsee" the trauma. The exclusion for stress disorders, established in 1988, is outdated. Psychological care is now available for stress disorders and the Diagnostic and Statistical Manual of Mental Disorders, fifth edition, specifically recognizes repeated exposures among first responders. Current law allows coverage for single event reactions, but not cumulative exposure. Firefighters experience PTSD at the same rate as military members. Mentally burying events has limits. Some can manage, but if a person has a stress induced reaction, they should be able to get treated. Sometimes just counselling is needed. The bill will help reduce violent interactions between community members and law enforcement.

(Opposed) Cities have had significant workers' compensation rate increases in the last four years. County budgets are tight and this bill does not come with new revenue. While opponents are open to talking about mental health care, the presumption goes too far. Carving out LEOFF members and creating a presumption depart from normal workers' compensation policy. There are diagnostic challenges with stress conditions.

**Persons Testifying:** (In support) Representative Lovick, prime sponsor; Michael White, Washington State Council of Fire Fighters; and Bud Sizemore, Washington Council of Police and Sheriffs.

(Opposed) Candice Bock, Association of Washington Cities; Josh Weiss, Association of Washington Counties; and Kris Tefft, Washington Self-Insurers Association.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Ormsby, Chair; Robinson, Vice Chair; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 13 members: Representatives Chandler, Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Manweller, Nealey, Schmick, Taylor, Vick, Volz and Wilcox.

**Staff:** David Pringle (786-7310).

### **Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Labor & Workplace Standards:**

The substitute bill removes the presumption that posttraumatic stress disorder is an occupational disease.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 27, 2017.

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

### **Staff Summary of Public Testimony:**

(In support) First responders are repeatedly exposed to trauma and need to be protected. They have the same rates of post traumatic stress disorder (PTSD) as veterans. The current law on stress is outdated. The Diagnostic and Statistical Manual of Mental Disorders, fifth edition, specifically recognizes repeated exposures for first responders. This is a public safety issue, as the fiscal note shows there are about 40 first responders with PTSD every year. An amendment to remove the presumption and lower the cost is supported.

(Opposed) Cities have had significant workers' compensation rate increases and are very concerned about the costs of the bill. Cities are committed to addressing stress and are willing to work with the proponents.

**Persons Testifying:** (In support) Representative Lovick, prime sponsor; Bud Sizemore, Washington Council of Police and Sheriffs; and Michael White, Washington State Council of Fire Fighters.

(Opposed) Candice Bock, Association of Washington Cities.

**Persons Signed In To Testify But Not Testifying:** None.