

MINUTES
HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 05, 2015

TIME: 1:30 P.M.

PLACE: Room EW05

MEMBERS: Chairman Hartgen, Vice Chairman Anderson, Representatives Harris, Holtzclaw, Romrell, Chaney, Horman, Nielsen, Packer, Redman, King, Chew, Rudolph

**ABSENT/
EXCUSED:** Rep. Packer

GUESTS: Mike Taylor, Woody Richards, Angela Richards, NCCI Ins. Cos.; George Parham, SIF; Al Gardner; Kelly Paananen, Ada County; Stephanie Butler, Mindy Montgomery, Beth Kilian, RD Maynard, Tom Limbaugh, Idaho Industrial Commission; Richard Owen, Tom Lovell, PFFI; Michael McPeek, Gardner Law Office; Matt Pigjeon, Alexandr Rangel, FCSN; Rob Shoplock, Professional Firefighters; Shawn Laughlin, Nampa Firefighters, Leon Duce, Association of Idaho Cities; Bryon Welch, Office of Performance Evaluations; Elizabeth Criner, NWFPA/FWAA; Joe Stear, ISFCA; Kevin Courtney, Idaho Volunteers; Juan Bonilla, IVFESA/Chiefs; Seth Grigg, AIC; Tom Donovan, Department of Insurance; Phil Barber, American Insurance Association; Paul Jackson, Farmers Insurance; Jennifer Law, District 6; Chad Ranstrom, Morton and Co.

Chairman Hartgen called the meeting to order at 1:30 p.m.

MOTION: **Rep. Harris** made a motion to approve the minutes of January 29, 2015. **Motion carried by voice vote.**

Chairman Hartgen stated the purpose of the meeting was to begin to gather opinion, ideas and facts on first responders compensation and that no legislation, will happen this year.

Woody Richards NCCI INS COS., stated the company has worked to develop rates and rules on first responders coverage.

Mike Taylor NCCI INS. COS., said the company measures data on first responders compensation. Most first responders are not self-insured for cancer coverage and state employees are not covered either. The number of first responders with cancer is not easy to track. The NCCI INS. COS. has created a list of presumptive diseases applicable to workers compensation coverage by the state. Idaho workers compensation does not cover cancer or blood/infectious diseases for first responders. Seventy percent of fire fighters in Idaho are volunteer so it is difficult to gauge cancer rates in the state.

In response to questions, **Mr. Taylor** noted insurance coverage carriers are required to submit annual statistics on coverage and workers compensation claims because there are volunteer first responders and full-time first responders, the coverage is different and not true, comprehensive statistics do not exist. He also stated thirty to forty years ago presumptive disease and cancer were added to coverage and in 2001 there was a big push for additional coverage.

Matt Pidjeon, Fire Fighters Cancer Support Network, Idaho Chapter stated they educate fire departments on the dangers they face when on the scene and how to better protect themselves. Cancer is the leading cause of death among fire fighters. One in three fire fighters develop cancer. Fire fighters are more likely to develop cancer than in any other field. Chemical readings post fire showed there were chemical reading recorded forty five to sixty minutes after fires were out. This is the reason first responders are more at risk, because of synthetic material burning versus natural materials. Synthetic materials burn faster and hotter than natural materials and for every 5 degree increase in skin temp there is a 400% increase of skin absorption thus increasing the likelihood of cancer development.

In response to questions, **Mr. Pidejon** commented that the safety of materials the fire fighters wear has improved, but the materials create a film that is actually dangerous over time. Some of the dangerous chemicals are still able to penetrate protective gear. He said there are chemical readings thirty to forty feet from the fire so even fire fighters not directly in the fire are still exposed to dangerous materials. He also noted the fire fighters are learning more about how to protect themselves. Teaching is a big part of exposing fire fighters to dangers they face in the profession. He said blood and infectious diseases are also a concern to fire fighters. Additionally, he stated the largest number of fire fighters are volunteers, 70% in Idaho and nationally. He is unsure if volunteers are required to have yearly physicals.

Rob Shoplock, Professional Firefighters Association, told a story of a local fire at a mobile home at which they were told no one was home. The first responders went inside and found a pregnant woman, husband and child. They rescued them and then did CPR for forty minutes. When called to an emergency first responders do what they have to, there is not an option to stay in a safe area. The gear they wear is good, but danger is still there and they are still exposed to hazardous materials. In the past fifteen years, in Idaho there have been two cases of cancer developed in actively working first responders. Most cases of cancer development is in retired first responders. All that the fire fighters want is protection for cancer when they meet the qualifications.

In response to questions, **Rob Shoplock**, stated many fire fighters purchase private cancer insurance. He said this does not always have the best treatment solutions. The best coverage for first responders would be through a workers compensation plan. Additionally, he said the studies are from full time fire fighters, not from volunteer fighters. There is blood born tracking for active fire fighters, but there is no tracking on carcinogens of active fire fighters. He also noted they are working with different groups to find the best protective materials, but because there are so many hazardous materials that fire fighters are exposed to, there are not materials that protect against everything. They want coverage for exposure to dangerous materials for fire fighters who have had exposure and have meet the stipulations of healthy lifestyle.

Joe Stear, Idaho State Fire Commissioners Association (ISFCA), stated ISFCA position is against first responders coverage because it did not include volunteer fire fighters. There are not perimeters to decipher the amount of coverage for different types of fire fighters. Also, the ISFCA is concerned with the rate increases for workers compensation insurance.

In response to questions, **Joe Stear**, stated volunteers should qualify for workers compensation if they meet specific outlined parameters and volunteer fighters would need to also have yearly physicals. Also, he stated individual fire departments and districts would need to contribute different amounts toward workers compensation. Some districts would be left out because they are not currently providing workers compensation for volunteers. The cost statewide for this added benefit has been estimated at a 1-3% increase in workers compensation rates. For most districts already paying workers compensation, this rate increase would be absorbed. He also noted volunteers who are exposed to hazardous materials at other jobs would need to have parameters set to the number of fires they responded to so that appropriate coverage could be determined.

In response to questions, **Joe Stear**, stated exposure to chemicals is similar in rural and urban areas and all groups are working together to get legislation proposed to make this coverage happen.

Seth Grigg, Association of Idaho Cities, stated if they can be a source of information gathering, they are willing to help.

Mr. Grigg stated the retirement rules may need to be addressed because of exposure, but the extra cost of early retirement would need to be addressed because of the cost for paying for early retirement.

Michael McPeck, Gardner Law Office, presented on Occupational Disease Law, stating the disease needs to show it was caused during the time of employment, and meet the increased risk period. The conditions of that employment must prove additional diseases are not common to average people. He said regarding cancer, the Supreme Court deemed a disease found to the general public, would be covered by workers compensation because the diseases are common to the general public, but there is an increased risk to first responders because of the increased exposure to hazardous materials.

In response to questions, **Michael McPeck**, stated when providing proof of cause of cancer for first responders, there does not need to be an exact date of exposure. History of employment would be looked at and the probability of exposure during the time worked to determine coverage. He stated the level of assuredly to exposure to carcinogens with first responders falls under causation in workers compensation cases and is more likely than not, a 51% certainty that employment has caused that disease. Also, he stated the laws involving workers compensation for first responders cancer cases vary across the US and there are different definitions of what is presumptive across the US. The list of presumptive diseases is available because there is enough of a risk so employees just have to prove exposure. Additionally, he said he had no knowledge of cases when fire fighters died of cancer and was unsure if the employees filed for workers compensation.

In response to questions, **Rob Shoplock**, stated there have been two cases in Idaho of active fire fighters developing cancer. In both cases the individual filed for workers compensation and failed to be approved for coverage.

Kevin Courtney, Idaho Volunteers, stated the organization is working with other organizations to get coverage for volunteer fire fighters.

Richard Owen PFFI, stated there is no presumption of causation, because it classifies cancer as an occupational disease. It eliminates the need to prove that first responders were exposed to a chemical and that is unusual to the job. The classification needs to change and there is no presumption but still requires documentation and medical proof. The exception to this presumption is there should not be a specific date of exposure which must be proven, because this is already in the law. Exposure and proof are hard to provide by fire fighters so cancers should be listed as an occupational disease.

In response to questions, **Mr. Owen**, stated there is the possibility to have a percentage of exposure in a proposed bill. The bill that is being added addressed the issue of if a first responder is exposed to hazardous materials at work then diseases caused by exposure are considered occupational diseases. He also noted if cancers are stated as occupational disease, proof of exposure will not need to be provided.

Al Gardner, Gardner Law Office, stated cancer needs to be added to the list of diseases not just specifically to fire fighters, so the current draft needs to be adjusted. The key is employers are to cover work risks and work covered diseases. If statistical liabilities are added then there is no need to prove exposure. Fire fighting has statistical risk of cancer development and this is not the case for other occupations.

In response to questions, **Al Gardner**, stated the exposure proof is an unknown and standards of proof are used to justify coverage. There is not a large number of workers compensation claims that end up in litigation, but if they do, there needs to be proof and evidence.

Juan Bonilla, IVFESA Chiefs, stated The National Fallen Firefighter Foundation has created this task force to help states understand the threat and guide our service in the right direction with prevention as well as presumptive legislation. The four Idaho fire associations have now come together to come up with a strategic plan for this issue as well as presumptive legislation that includes volunteers. The fire associations involved are the Idaho Volunteer Fire and EMS Service Association, Idaho Fire Chief's Association, Professional Firefighters of Idaho, and the Idaho Fire Commissioners. Volunteers with more than five years of service have a 10% higher chance of getting cancer and a retired full time fire fighter has a 20-25% increased risk of getting cancer. Fire fighters have protective gear but carcinogens are still absorbed in the skin, and gear needs to be improved to reduce cancer risk, however, there needs to be worker compensation coverage as well.

In response to questions, **Juan Bonilla**, stated workers compensation contribution rates would not increase much but the coverage would be there to help those fire fighters effected with cancer.

Tom Lovell PFFI, stated in his twenty four years of service as a fire fighter, he has kept a log of calls so he has proof all of his over 1,500 calls to over 200 fires. Fire fighter protective gear has improved greatly, but there are still issues with smoke absorption. Even with the advances in protective gear, risk of developing a disease from past exposure is still a concern. Safety training of the risks of exposure is emphasized in the fire department. The biggest concern is to have protection if a work related disease is developed so family members do not need to fight to get coverage. Workers compensation coverage needs to be addressed for coverage of fire fighters.

In response to questions, **Tom Lovell**, said he has averaged two to three fires per month in seven stations in Boise. He has seen cancer impact only one active fire fighter, however, it is when fire fighters retire that cancer impacts them.

Chairman Hartgen, stated discussion as a committee will take place and first responders compensation will be addressed next session.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:16 p.m.

Representative Hartgen
Chair

Erin Hutto
Secretary