

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 15, 2016

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Martin, Senators Lakey, Guthrie, Heider, Rice, Thayn, Schmidt and Ward-Engelking

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Patrick** called the meeting to order at 1:00 p.m.

MINUTES APPROVAL: **Senator Ward-Engelking** moved to approve the Minutes of March 1, 2016. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

Chairman Patrick commented the Minutes Approval for March 3, 2016, would be heard later in the meeting.

H 554

Workers' Compensation Firefighter Occupational Diseases. Rob Shoplock, Professional Firefighters of Idaho, said this bill addresses the nearly impossible burden of proving occupational diseases associated with firefighting within the workers' compensation system. Research has established that firefighters are significantly more likely to develop certain types of cancer than the general population. Under current law, the burden of proof for these known occupational diseases is nearly impossible to overcome as exposures are chronic, occur over long periods of time and are uncertain regarding specific toxins and carcinogens present at any given structure fire. This bill would change existing workers' compensation law so that it would be presumed that such diseases were occupationally related unless medical evidence showed otherwise.

Mr. Shoplock advised that the National Council on Compensation Insurance (NCCI) "expects that the enactment of such presumptions will result in increases in workers' compensation; however the extent of such increases is difficult to estimate due to significant data limitations, which include the scope of data reported to NCCI and the conflicting results of published studies on occupational disease and firefighters." There is no impact on the General Fund.

TESTIMONY:

Francesca Litow, Occupational Medicine Physician and Adjunct Assistant Professor of Environmental Health, Johns Hopkins University Bloomberg School of Public Health, testified via a phone conference, in support of the bill. **Dr. Litow** said that studies have clearly documented reason for concern about the chemicals in smoke that firefighters' commonly encounter. Smoke is a complex mixture of cancer-causing chemicals from combustion of all the various products in modern fires. She noted a Harvard study that examined levels of a number of air contaminants at more than 200 structural fires provides an example of the uncontrolled, hazardous nature of firefighter exposures. The only available form of protection for firefighters is also the least effective of the established workplace exposure controls. The use of personal protective equipment, such as respirators and turn-out gear, is far inferior to such remedies as substitution with a safer chemical, enclosure of the hazard and ventilation. She stated that despite using

turn-out gear, firefighters commonly note soot on their skin after working major fires.

Dr. Litow said that results combining all data in 32 studies of firefighters for 20 different cancer types are presented in the LeMasters report. Notably, risks for ten types of cancer (50 percent of the types tested) were significantly increased in firefighters; risks for the other ten types were increased but did not reach statistical significance. She said that in the LeMasters study, a two times higher risk for testicular cancer was found. The other significantly associated cancers were increased by 20 to 50 percent. It is likely that the risk is even higher because there are several major challenges in accurately studying risk in firefighters and all result in underestimation of risk.

Dr. Litow said when firefighters are diagnosed with cancer as a result of their job, they face a system that is stacked against them. In the absence of presumptive legislation, the firefighter has to shoulder the burden of proving that his or her cancer is work-related. The firefighter has to find legal counsel to help with the process and a health care provider who understands the complex causation issues for work-related disease, which is much more challenging than for injuries. Sometimes they are even asked to identify the exact exposure that caused their cancer, which is clearly impossible. When these occupationally induced cancers are not covered by workers' compensation insurance, firefighters must use sick leave and may have to use personal savings in order to cover medical costs after the insurance maximum is met. These additional burdens should not be placed on firefighters when they develop cancers that studies have shown are clearly a result of their occupation.

Dr. Litow said air monitoring clearly documents that firefighters are exposed to carcinogens at high levels in their work. Recent large cohort studies continue to support that firefighters are at increased risk of developing and dying from multiple types of cancer. For a number of reasons, the risks are likely substantially higher than the studies report. We also know that the current workers' compensation system places an enormous burden on individual firefighters who develop cancer.

DISCUSSION:

Senator Schmidt and **Dr. Litow** had a conversation about insurance in other states that covers firefighters in the workplace. They talked about apportionment in California, and how smoking and job-related issues are complicated and difficult it is to determine whether and to what extent a disease is caused by an individual smoking, for example, or an exposure in the workplace.

Vice Chairman Martin asked why the volunteer firefighters are included in this bill. **Mr. Shoplock** explained that when he met with Representative Hartgen last year, they discussed adding the volunteers because many respond to calls just as the career firefighters do. They will be required to have the same physicals as the career firefighters. He said he did not think the amount of claims would increase. **Vice Chairman Martin** referred to page 6, line 44, of the bill and asked why those investigating fires should be included. **Mr. Shoplock** said investigators have been lifelong firefighters and during a fire investigation they are exposed to the same carcinogens while digging through soot.

Senator Lakey asked if there was something added to the list of specific cancers and the timeframe in which they occur. **Mr. Shoplock** said mesothelioma was added because of the high probability of occurrence.

Senator Thayn referred to page 7, line 32, and asked about the use of tobacco products for ten or more years prior to a diagnosis and wanted to know what that meant. **Mr. Shoplock** said the firefighter must not be a habitual tobacco user for ten years and must be tobacco free in addition to the latency period.

Senator Rice pointed out that if a firefighter used chewing tobacco for ten years, there would not be coverage. **Mr. Shoplock** said the bill was written this way, but was intended to address secondhand smoke. **Senator Rice** asked why there was a sunset clause. **Mr. Shoplock** explained that when the discussions took place, the legislation was written to reflect that the Legislature meets once a year. Problems will be addressed and evaluated every year. **Senator Rice** commented he was in support of the bill and that cleanup would be done on an ongoing basis.

Mr. Shoplock thanked everyone who had taken the time to meet with him and he asked for support from the Committee.

MOTION:

Senator Ward-Engelking moved to send **H 554** to the floor of the Senate with a **do pass** recommendation. **Senator Rice** seconded the motion. **Senator Lakey** said he was in support of the bill and commented the tobacco language could be made more clear next year. The motion carried by **voice vote**. Senator McKenzie will carry the bill on the floor.

**MINUTES
APPROVAL:**

Senator Schmidt moved to approve the Minutes of March 3, 2016. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

S 1385

Relating to Automobile Liability Insurance. **Bill Litster**, Idaho Public Policy Institute, stated the purpose of this legislation is to increase the required automobile minimum liability insurance or proof of financial responsibility from \$25,000 to \$50,000 maximum for one claimant; from \$50,000 to \$100,000 maximum for two or more claimants; and from \$15,000 to \$50,000 maximum for property damage. Liability insurance minimum limits have not been increased since 1983, which is over 33 years ago. The same \$25,000 in medical services that a person received in 1983 would cost over \$100,000 today. He made a comparison of the cost of automobiles from 1983 until now.

Mr. Litster commented the precise savings are yet to be determined, but the benefit to the General Fund and other government entities is conservatively estimated to be between \$1 million and \$2 million. The reason for these savings is because government entities that have paid for medical bills have a first-position reimbursement right (subrogation) from automobile insurance settlements paid from an at-fault driver or the responsible insurance company.

Mr. Litster stated that actual quotes from various insurance companies indicate that for an average driver to move from the current State-required minimums to the proposed new increase would cost between \$2.50 and \$3.75, depending on the company. **Mr. Litster** said that 95 percent of the initial cost to buy a minimum \$25,000 policy is what the insurance company wants to charge a driver based on risk assessment, which is very inexpensive.

Mr. Litster went over the objections he said he heard about this legislation. He cited the state of Maine and said their percent of uninsured motorists remained the same after their liability minimums were raised.

Mr. Litster remarked that the hospitals, doctors and entities providing up-front and post-accident medical care would be helped. Many would rather not submit their bills and take a reduced taxpayer-funded payment, but instead wait for payment at 100 cents on the dollar at settlement from adequate automobile liability policies. Benefitting in turn would be every county's property tax Indigent Fund and the State Catastrophic Liability Fund (CAT), the Crime Victims Driving Under the Influence (DUI) Fund and Medicaid. Taken together, these government entities collectively pay eligible medical bills on hundreds of accidents annually for victim drivers, and thus have a full reimbursement right for what they paid out from the automobile liability policy underinsurance. Additionally benefiting would be health

plan providers of government and private employers (Blue Cross, Blue Shield, Select Health). The precise savings are yet to be determined, but the benefit to the General Fund and other government entities is conservatively estimated to be several million dollars.

Mr. Litster said the consequences of waiting on this legislation would be that people who are involved in catastrophic accidents would suffer a significant financial loss.

DISCUSSION: **Senator Rice** commented he remembers a discussion that occurred last year and he expressed a concern this issue has been brought forward at the end of this session. Because of that, the public cannot be heard and he said this legislation should have been heard in January. **Mr. Litster** said if time runs short, he will have victims testify. He said he discussed running two bills simultaneously with Senator Rice in January. He said this bill is simple and not complicated. He said the implementation date would be January of 2017.

Senator Rice said this bill was never going to be a companion bill, which he made clear to Mr. Litster during their conversation. He said the other bill that Mr. Litster was referring to needed considerable work on the language.

Vice Chairman Martin stated this bill changes the liability limits with the first two amounts being doubled; he asked why the third amount tripled. **Mr. Litster** said the Legislature in the past has chosen to make the property damage amount a single limit amount, whether it is one person or more. He said he had been in contact with the chairman of the CAT Fund and if he gets the support of the other groups, this would be important.

Senator Schmidt stated that Mr. Litster was describing the amounts as minimum amounts. He wanted to know how frequently people have the minimum car insurance. **Mr. Litster** said it was anecdotal and different figures are mentioned. He said he spent time with the Director of the Department of Insurance (DOI) discussing these amounts.

TESTIMONY: **Kathryn Mooney**, CAT Fund, testified in opposition to this bill and stated she wanted to clarify the remarks previously made by Mr. Litster. She said the Chairman of the CAT Fund had asked her to write a letter to the Senate State Affairs Committee during the print hearing for this legislation, relating to an alleged comment made by CAT Fund representatives. She stated they did not request nor are they involved with **S 1385**. As a State agency they would not presume to issue support on behalf of any legislation. Some information and reporting of the CAT Fund is accessible on the internet. She said they do not have data for the Committee and the Senators could draw their own conclusions.

Michael Kane, Attorney, representing Property Casualty Insurers Association of America, spoke in opposition to the bill. He said his client opposes a raise in the cost to the public who has to buy their product. The proposal will make the State of Idaho have the highest insurance rates in the country. Alaska has a 13 percent uninsured rate. He guarantees the change would cause an approximate 10 percent increase in rates. Approximately 20 percent of private insurance contracts in the State would be immediately voided. He said he was gravely concerned about the fiscal note. **Mr. Kane** said the counties are not supportive. The counties and the CAP Fund were not approached by Mr. Litster.

Matt Andrew, Attorney, said he litigates auto accidents. He spoke in support of the bill. He said medical costs go up every year and are ever increasing. Due to inflation, he believes it is time for the minimums to increase. He said this was an important and meaningful change.

Angela Richards, representing Allstate, American Family and the Farm Bureau Insurance companies, testified in opposition to this bill. She said approximately 91 percent of claims are handled within the policy limits.

Phil Barber, American Insurance Association, testified in opposition to the bill. He said this bill would raise insurance for those who have the least amount of assets. People who do not have assets are less inclined to buy insurance. He remarked this bill would create a large body of uninsured drivers.

Dean Cameron, Director, DOI, testified in opposition to this bill. He suggested the bill be held in Committee for this year. He said he has not had significant conversations with Mr. Litster. He said Mr. Litster visited with him the same day the bill was printed. He expressed concern and said he believed there is significant data that could be researched about the overall effect and cost of the proposed changes. He talked about comparison of limits and a higher threshold and cost when everyone has to adhere to the higher limits. He knows of agents who suggest insurance be purchased at a higher level of coverage, which is a smart thing to do. He remarked that Idaho would become an outlier as compared to other states. He said he was willing to work with other agencies and Mr. Litster, should the bill be brought forward sooner next year.

Vice Chairman Martin wanted to know what percentage of Idahoans only carry the minimum amount of insurance. **Director Cameron** said that figure could be obtained from the carriers.

Julie Hart, representing Enterprise Rental Company, testified in opposition to the bill. She said by changing the limits, it would be a logistical problem with cars crossing state lines. There would be a problem determining which car would go to which states and contracts would have to be rewritten.

Vice Chairman Martin wanted to know how much insurance would increase for rental companies. **Ms. Hart** said approximately \$25 to \$175 per rental, depending on the driver and the type of car.

Mr. Litster said one of the benefits of the bill would be when a Nevada tourist visited Idaho, there would automatically be \$50,000 in property damage coverage. He said he had an economist draft a report noting the cost of medical goods has increased.

Senator Rice disclosed for the record that his firm handles personal injury cases.

MOTION: **Senator Ward-Engelking** moved to hold **S 1385** in Committee. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**, with **Vice Chairman Martin** asked to recorded as voting nay.

ADJOURNED: There being no further business, **Chairman Patrick** adjourned the meeting at 2:16 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary