

## Department of Planning and Budget 2009 Fiscal Impact Statement

**1. Bill Number:** HB2574

House of Origin	<u>X</u>	Introduced	___	Substitute	___	Engrossed
Second House	___	In Committee	___	Substitute	___	Enrolled

**2. Patron:** Miller

**3. Committee:** Appropriations

**4. Title:** Line of Duty Act

**5. Summary:** This bill amends the definition of “deceased person” under the Line of Duty Act to include an individual who suffers a fatal heart attack or stroke while engaged in delineated nonroutine stressful or strenuous situations not later than 24 hours after engaging in such activity. The bill also allows for the \$100,000 payment to the beneficiary of the deceased to be annually adjusted to reflect changes in the Consumer Price Index.

**6. Fiscal Impact Estimates:** Preliminary, see Item 8.

**7. Budget Amendment Necessary:** Possibly. Department of Accounts Transfer Payments, Item 267.

**8. Fiscal Implications:** This bill increases the number of individuals who will receive the maximum benefit (currently \$100,000) under the Line of Duty Act. The Department of Accounts (DOA) plans to interpret the legislative intent to provide the additional benefit for deaths occurring on or after the enactment date. Prospective application will increase the number of cases to which the \$100,000 payment applies by about three individuals per year. Therefore, should the bill be interpreted to be prospective after enactment, then the estimated budgetary impact will be \$225,000 per year plus the impact of the Consumer Price Index.

However, the proposed statutory change could be challenged in court to be retroactive because the amended language is within the paragraph that defines deaths as those occurring after April 8, 1972. Past claimants meeting the referenced fatality circumstances might file new claims for payment of the difference between the presumptive death benefit amount previously paid and the higher direct and proximate death benefit amount available at the time of their death. Since the 24 hour requirement was not in place at the time of the original state police investigation, investigative information may be unavailable or difficult to obtain. The maximum number of disability and death claims approved due to heart attack or stroke presumptions since April 8, 1972 and therefore susceptible to this challenge is 108. The percentage of these deaths that will meet the new criteria cannot be estimated. Funding for additional benefits if this eligibility challenge is upheld is estimated to be between \$1.85 million and \$8.1 million, depending on how many of the 108 known cases file for additional benefits. This risk could be mitigated entirely with additional language providing that the increased benefit is for “deaths on or after” a date certain.

DOA anticipates that adjusting the death benefit based upon the Consumer Price Index can be handled administratively without difficulty.

Additional funding for state police investigations may be necessary to document the time and circumstances of stressful incidents and the time of death in sufficient detail to allow the State Comptroller to make a decision on which deaths meet the new criteria. DOA administrative effort will not change substantially to implement the new criteria.

**9. Specific Agency or Political Subdivisions Affected:** Department of Accounts, Department of Accounts Transfer Payments, and Department of State Police

**10. Technical Amendment Necessary:** See Item 11.

**11. Other Comments:** While DOA is going to interpret the bill as being prospective, if it is the intent for the bill to be retroactive, then a clarifying amendment may be necessary. In addition, this bill is very similar to the introduced version of SB943.

**Date:** 1/29/2009 dpbaek

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cc: Secretary of Finance