

Department of Planning and Budget 2010 Fiscal Impact Statement

1. Bill Number: SB 95

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Quayle

3. Committee: Passed Both Houses

4. Title: **Line of Duty Act; short-term disability benefits for state police officers.**

5. Summary: Provides that a state police officer who incurs a work-related injury in the line of duty shall receive supplemental short-term disability coverage providing income replacement for 100 percent of the officer's creditable compensation for the first six months and, pursuant to a certification by the Superintendent of State Police, based on a medical evaluation, that the officer is likely to return to service within another six months, up to one calendar year. At the end of the one-year period, the officer would be eligible for supplemental long-term disability benefits, which provide income replacement at 60 percent of the officer's creditable compensation. Currently, the maximum period that an eligible employee generally may receive short-term disability benefits, before getting long-term disability benefits at the 60 percent rate, is 125 work days.

6. Fiscal Impact Estimates: Final.

7. Budget Amendment Necessary: Possibly, see Item 8.

8. Fiscal Implications: This bill would impact benefits paid to Department of State Police officers who are disabled in the line of duty. Specifically, this bill would extend the amount of time that officers are eligible for short-term disability coverage to up to one full year.

Under the Virginia Sickness and Disability Program (VSDP), managed by the Virginia Retirement System (VRS), individual agencies are responsible for paying for short-term disability benefit payments. Short-term disability benefits follow a tiered percentage of 100 percent, 80 percent and 60 percent, the length of each tier being determined by a combination of date of hire or re-hire, years of service and whether or not the claim is work-related. Eligible employees hired or rehired on or after July 1, 2009, receive 60 percent of pre-disability income during the first 5 continuous years of employment. After five years of continuous employment, income replacement begins at 100 percent of pre-disability income, reducing to 80 percent and then 60 percent, for up to 125 workdays. The number of days at each percentage income replacement is based on the person's length of state career service. The short-term disability benefit period for both those hired prior to and those hired on or after July 1, 2009, is 125 work days (26 weeks). After 26 weeks the claim rolls into long-term disability and the benefits are paid out of the VRS Long-Term Disability Trust fund.

This bill would have the effect of deferring the long-term disability benefits of State Police officers who are disabled in the line of duty for up to an additional six months, pursuant to a

certification by the Superintendent of State Police, based on a medical evaluation, that the officer is likely to return to service within another six months. At the end of the one-year period, the officer would be eligible for supplemental long-term disability benefits, which provide income replacement at 60 percent of the officer's pre-disability income. Currently, and as noted above, the maximum period that an eligible employee generally may receive short-term disability benefits, before getting long-term disability benefits, is 125 work days.

According to State Police, there will be costs to their agency associated with this bill.

Over the past three years, State Police has averaged 86 short-term disability claims for injuries sustained in the line of duty. Since the inception of VSDP in January 1999, 29 of these short-term disability claims have transitioned to long-term disability after the initial six months of short-term disability. It is unknown how many officers would remain on short-term disability for an additional six months, or for a portion of the additional six month period, if this bill should pass.

In addition to the indeterminate number of claims extended by this bill, the cost to State Police as a result of this bill would also be dependent upon: (i) the annual salary for eligible officers, (ii) the proportion of offset from Worker's Compensation for each claim, (iii) the percent of compensation reimbursement (60, 80 or 100) for the additional months of short-term disability for each claim, and (iv) the number of days an officer would qualify for short-term disability, based on years of service. Therefore, while State Police will most likely incur additional costs relating to this bill, it is indeterminate what these costs will be.

Note also that State Police would continue to be responsible for the full cost of health care premiums, as well as any increases in salary and fringe benefit expenses and leave accruals, for each officer on extended short-term disability. Under current practice, State Police's portion of health care premiums ceases only after an officer enters long-term disability and is confirmed as permanently disabled by a physician; at this point the officer qualifies for coverage under the Line of Duty Act, administered by the Department of Accounts, and health premium payments are covered out of this Act.

In addition, State Police would most likely be unable to fill the position of the officer on short-term disability for the period of time that he/she is classified as such.

As mentioned above, since the benefits of this bill only apply to work-related claims, most State Police expenditures for short-term disability would be offset by Worker's Compensation benefits which are tax free and are approximately two-thirds percent of the employee's average weekly wage. These payments are included in a risk management calculation by the state which is covered by a premium paid by all state agencies into a trust fund, and reimbursed to agencies that report claims through transfers. As far as costs incurred by Worker's Compensation, the main impact of this bill would be the potential for a nominal increase in the cost of handling the claims for an extended period should they not be effective in returning the officer to full-time work.

According to VRS, both the short-term and long-term work related disability benefits are not subject to federal or state income tax because they are considered to be similar to Workers' Compensation benefits and therefore not taxable.

Long-term disability payments are paid from the Virginia Sickness and Disability (VSDP) Trust Fund. Because this bill shifts potential payments for officers to short-term disability and delays the start of the long-term disability benefits, it may result in a cost decrease to the VSDP Trust Fund. The VRS actuary estimates that this bill could save the VSDP Trust Fund approximately \$18,500 in the first year which would be factored into the next valuation of the VSDP.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Virginia Retirement System, Department of Human Resource Management, Workers' Compensation Commission, Department of Accounts.

10. Technical Amendment Necessary: Yes, line 23; a space is needed after "Title 51.1".

11. Other Comments: This bill provides a new benefit to one group of state law enforcement officers. Note that there are many other groups that may qualify under similar circumstances and may seek this benefit as well; this may result in future costs to the state.

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