

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: SB468

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Reeves

3. Committee: Finance

4. Title: Line of Duty Act; death benefit eligibility; Department of Military Affairs employees.

5. Summary: Confers eligibility not currently available for death benefits under the Line of Duty Act to any employee of the Department of Military Affairs whose death is the direct or proximate result of the performance of official duties of the agency when those duties are related to a major disaster or emergency.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary – indeterminate, see Item 8.

8. Fiscal Implications: This legislation would make employees of the Department of Military Affairs (DMA) eligible for Line of Duty Act (LODA) benefits but only when they are performing their official agency duties during a major disaster or emergency as declared by the Governor. Therefore, it is difficult to estimate the fiscal impact due to the irregular frequency of Governor-declared major disasters and emergencies and claims stemming from those situations. As described below, the Virginia Retirement System (VRS) indicates there would not be a current impact to the cost calculations for employers that participate in the VRS-administered Line of Duty Death and Health Benefits Fund (Fund).

For purposes of the following discussion, please note the distinction between employers that fund their LODA benefits through the VRS-administered LODA Fund (“participating employers”), which includes all state agencies and political subdivisions that did not opt out, and those that fund their LODA benefits through some other mechanism (“nonparticipating employers”).

VRS does not currently charge participating employers premiums for employees whose only LODA-covered activity is potentially being called upon to work during a declared major disaster or emergency. VRS is not aware of how payment by nonparticipating employers for similarly situated local employees is handled. At the inception of the Fund and based on advice from the plan actuary, VRS adopted a policy of charging 10% of the LODA participating employer annual charge for National Guard members and 25% of the annual charge for volunteers in recognition of the decreased amount of time that such individuals spend in line of duty related activities.

Likewise, a decision was made not to charge for employees whose only LODA-related activity would be during a declared major disaster or emergency, such as Department of Emergency Management employees who are otherwise not covered by LODA. In addition to the shorter period of time, if any, that these employees would spend in LODA-eligible activities, it was also taken into account that the employers may not be able to identify everyone who may be called upon to assist in a declared major disaster or emergency for purposes of the annual census upon which participating employer costs are based.

In keeping with this approach, there would not be a charge for these employees of DMA contemplated in this legislation. If, however, the estimated number of employees were to increase, or there were an increased number of declared major disasters or emergencies, the current approach may need to be revisited and there would need to be a charge imposed for these employees.

If employees receive LODA benefits due to this new coverage category, future costs for the Fund would be increased to reflect the additional coverage. Finally, additional costs could result from retroactive eligibility of claims (see Other Comments), although there would be no immediate impact to the premiums charged to participating employers.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Retirement System, the Department of Human Resource Management, the Department of Military Affairs, and potentially all state agencies and local employers that participate in the LODA Fund and employ LODA-covered personnel.
- 10. Technical Amendment Necessary:** VRS indicates that if the is intended to provide retroactive eligibility (see Other Comments), no amendment is needed. VRS notes if the bill is intended to be prospective only, consider:

Line 32, prior to “any employee of”: “on and after July 1, 2018, ...”

- 11. Other Comments:** The Line of Duty Act (“LODA”), Chapter 4 of Title 9.1 of the *Code of Virginia*, provides benefits to certain hazardous duty personnel and their families for qualifying disabilities or deaths that occur in the line of duty. SB468 would add a new category of hazardous duty personnel eligible for LODA benefits: employees of the Department of Military Affairs (“DMA”) when they are performing official duties related to a major disaster or emergency, as those terms are defined in § 44-146.16 of the *Code of Virginia* and as declared by the Governor.

VRS notes that the bill retroactively allows potential claims from the past to become eligible for LODA benefits prospectively beginning July 1, 2018. The changes in SB468 permit eligibility retroactively in the DMA population for LODA-covered deaths dating back to April 8, 1972, and LODA-covered disabilities dating back to January 1, 1966. Beginning July 1, 2018, retroactive claims could be submitted during a five-year statute of limitations period. Although the claims could be eligible retroactively, benefits would be provided in

accordance with the second enactment clause of Chapter 907 of the 2005 Acts of Assembly¹ and the second enactment clause of Chapter 824 of the 2006 Acts of Assembly².

¹ 2. That any person eligible for benefits solely by virtue of the provisions of § 9.1-400 of this act shall be entitled to such benefits only on a prospective basis upon approval of a claim pursuant to §§ 9.1-403 and 9.1-404 that is made on or after July 1, 2005.

² 2. That any person eligible for benefits solely by virtue of the provisions of § 9.1-400 of this act shall be entitled to such benefits only on a prospective basis upon approval of a claim pursuant to §§ 9.1-403 and 9.1-404 that is made on or after July 1, 2006.