

Virginia Retirement System 2019 Fiscal Impact Statement

1. **Bill Number:** HB 1690

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| 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:** Simon

3. **Committee:** Appropriations

4. **Title:** Line of Duty Act; Metropolitan Washington Airports Authority police officers.

5. **Summary:** Expands the list of disabled persons and the beneficiaries of disabled or deceased persons eligible to receive benefits under the Line of Duty Act (LODA) to include Metropolitan Washington Airports Authority (MWAA) police officers whose disability or death occurs as a direct or proximate result of the performance of their duty.

6. **Budget Amendment Necessary:** No. LODA costs are recovered through premium payments for participating employers and eligibility determination fees for non-participating employers. No general fund appropriation will be required as MWAA is not a state agency.

7. **Fiscal Impact Estimates:** A more detailed breakdown of estimated costs are shown in Item 8 below.

8. **Fiscal Implications:** 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 such as self-insurance or private insurance coverage (“nonparticipating employers”).

MWAA was not eligible to provide LODA benefits during the time period when employers were able to opt out of the Line of Duty Death and Health Benefits Trust Fund (the “Fund”) (June 30th, 2012). Under the current definitions, MWAA would be a “participating employer” as it did not opt out of participating in the Fund, although that definition refers to political subdivisions and state agencies, and MWAA is neither of those.

As a participating employer, MWAA will be charged \$705.77 per eligible full or part-time police officer for coverage for fiscal year 2020. According to information provided by MWAA, the current number of sworn personnel in the MWAA Police Department is 220 FTE’s and the budgeted strength is 233 FTE’s for 2019. Based on the 2019 budget for 233 FTEs, this would result in an annual cost of \$164,444.41 for the LODA premiums for fiscal year 2020.

While rates for the 2021-2022 biennium have not been set, prior year projections indicated that the premium will likely increase to approximately \$778.02. The actual rate for the 2021-2022 biennium may be higher due to increases in health care costs. In addition, the future rates could be impacted with the inclusion of MWAA. Because the bill would retroactively allow potential claims from the past to become eligible for LODA benefits prospectively beginning July 1, 2019, this bill has the potential to increase the costs of the entire pool, which by extension could increase both the health insurance premiums for individuals covered by the LODA Health Benefits Plan and the contribution rate charged to participating employers.

9. Specific Agency or Political Subdivisions Affected: VRS, the Metropolitan Washington Airports Authority, police officers of the MWAA who would be covered, and participating employers.

10. Technical Amendment Necessary: Yes.

The definitions of “participating employer” and “nonparticipating employer” in § 9.1-400 do not contemplate a new entity becoming covered. Because the period during which an entity could opt out ended in 2012, any new entity covered by LODA would be considered a participating employer since it would not have had the opportunity to opt out. In addition, both definitions refer to “political subdivision,” and MWAA is a “public body corporate and politic and independent of all other bodies” § 5.1-153 of the *Code of Virginia*.

Suggested amendment is to add the following sentence to the end of the definition of “participating employer” in § 9.1-400, “For purposes of this chapter, the term ‘participating employer’ shall include the Metropolitan Washington Airports Authority.” Alternatively, if the intent of the legislation is to add MWAA as a nonparticipating employer, the suggested amendment is to add the following sentence to the end of the definition of “nonparticipating employer” in § 9.1-400, “For purposes of this chapter, the term ‘nonparticipating employer’ shall include the Metropolitan Washington Airports Authority.”

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. HB 1690 would add a new category of hazardous duty personnel eligible for LODA benefits: police officers employed by MWAA.

The Fund is made up of all state agencies with LODA-eligible employees, as well as political subdivisions that opted in to the Fund. An increase in LODA-eligible employees in the Fund could therefore impact state general and non-general fund contributions on behalf of state agencies, as well as all political subdivisions with LODA-eligible employees or volunteers.

The addition of categories of employees has the potential to increase the costs of the entire pool, which by extension could increase both the health insurance premiums for individuals covered by the LODA Health Benefits Plan and the contribution rate charged to participating employers. Additionally, the Fund is funded on a pay-as-you-go basis, so to the extent that

costly claims are brought into the LODA Health Benefits Plan, there may be cash flow issues until the contribution rates are recalculated. An increase in the contribution rate charged to participating employers would have a general fund and nongeneral fund impact. VRS is responsible for administering the Fund, which pays for the benefits provided under LODA for employees of participating employers, including health insurance premiums and death benefits. The VRS Board of Trustees establishes a per LODA-eligible employee contribution rate, which is paid by participating employers, including all state agencies with LODA-eligible personnel, and is used to maintain the Fund. Higher LODA contribution rates would require additional general fund and nongeneral fund support to state agencies with LODA-eligible personnel.

The bill would retroactively allow potential claims from the past to become eligible for LODA benefits prospectively beginning July 1, 2019. The changes in HB 1690 permit eligibility retroactively in the MWAA population for LODA-covered deaths and disabilities dating back to the entity's creation. Beginning July 1, 2019, 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.

Date: 01-10-2019

Document: HB1690.DOC/VRS

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.