

Department of Planning and Budget 2019 Fiscal Impact Statement

1. **Bill Number:** HB2075

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Bell, John J.

3. **Committee:** Commerce and Labor

4. **Title:** Workers' compensation; occupational disease presumptions.

5. **Summary:** Adds correctional officers and full-time sworn members of the enforcement division of the Department of Motor Vehicles to the list of public safety employees who are entitled to a presumption that hypertension and heart disease are occupational diseases compensable under the Virginia Workers' Compensation Act. The measure also adds correctional officers to the list of public safety employees who are entitled to a presumption that certain infectious diseases are compensable occupational diseases.

6. **Budget Amendment Necessary:** Indeterminate – see Item 8. According to the Virginia Retirement System (VRS), the inclusion of additional presumptions for diseases presumed to have occurred in the line of duty would increase the number of VRS work-related disability retirements that would have otherwise resulted in non-work-related disability retirements. Since a work-related disability retirement generally costs more than a non-work-related disability retirement, the bill would increase VRS disability retirement costs and, consequently, employer contribution rates. However, the volume of the impact is not known at this time.

7. **Fiscal Impact Estimates:** Preliminary – see Item 8.

8. **Fiscal Implications:** A review of all heart lung presumption claims filed with the Department of Human Resource Management's (DHRM) State Employee Workers' Compensation Services from 2000 to 2018 shows an average cost per claim of \$108,650. Excluding those claims filed for record purposes only and those that were denied coverage, the average cost per claim increases to \$264,131 for those claims where benefits were paid. The program covered a heart transplant under this statute in 2017. For that claim alone, \$2,347,525 has been paid to date with an estimated ultimate cost of \$3,770,508.

According to DHRM, a review of the Department of Corrections claims for infectious disease exposure indicates the program received 432 claims for calendar years 2014 – 2018. The average cost for all claims was \$1,195. For the Excluding Record Only and denied claims, 309 claims were accepted and the average cost for claims where benefits were paid was \$1,590.

Because the Commonwealth's workers' compensation premiums are experience-based, the agencies impacted by the proposed legislation would bear any increased cost for claims covered by this bill. Costs associated with pre-employment and annual testing would be directly borne by the agency and not paid by the State Employee Workers' Compensation Services program.

In addition to the effects this may have on workers' compensation, the bill could also affect eligibility for VRS traditional disability retirement because VRS automatically approves disability retirements if the employee is approved for workers' compensation. Increasing the population eligible for benefits, or the types of diseases or circumstances under which an employee is eligible for benefits, will impact the VRS plan experience and by extension potentially increase contribution rates.

Because the Virginia Line of Duty Act (LODA), Chapter 4, Title 9.1 of the Code of Virginia, uses certain workers' compensation presumptions to assist in determining whether a disability or death occurred in the line of duty for specific categories of employees covered by LODA, the addition of these presumptions for correctional officers, who are covered under LODA, would add to the costs for the Line of Duty Death and Health Benefits Fund (Fund), which includes local governments that participate in the Fund.

To obtain the results, VRS adjusted the LODA valuation model's current cost assumptions to reflect the estimated impact to cash flows:

- Approximate 15% increase to health care claims.
- Approximate 10% increase to death benefit claims.
- Approximate 35% increase to Health Insurance Credit Program (HIC) receipts for those participating in the HIC plan for State Employees.

The average impact of applying the legislation prospectively (deaths and disabilities occurring on or after July 1, 2019) is shown below:

Cost Impact on the LODA Fund

Item	Fiscal Year Ending June 30					
	2020	2021	2022	2023	2024	2025
Employer Contribution Rate (\$ Per FTE)						
Number of FTE Employees	19,013.65	19,013.65	19,013.65	19,013.65	19,013.65	19,013.65
Proposed Legislation - Prospective Only	\$716.82	\$794.14	\$799.96	\$958.54	\$965.07	\$1,060.41
June 30, 2018 Valuation	<u>\$705.77</u>	<u>\$778.02</u>	<u>\$778.02</u>	<u>\$930.16</u>	<u>\$930.16</u>	<u>\$1,018.78</u>
Additional Cost per FTE	\$11.05	\$16.12	\$21.94	\$28.38	\$34.91	\$41.63
Estimated Additional Contributions	\$210,100	\$306,500	\$417,200	\$539,600	\$663,800	\$791,500

Because of the unpredictable nature of future claims, VRS has also included a range of possible cost impacts in addition to the median expected claims shown above.

**Cost Impact on the LODA Fund
Additional Cost Per FTE**

Range	Fiscal Year Ending June 30					
	2020	2021	2022	2023	2024	2025
25% Impact	\$5.52	\$8.06	\$10.97	\$14.19	\$17.46	\$20.82
Average Impact	\$11.05	\$16.12	\$21.94	\$28.38	\$34.91	\$41.63
75% Impact	\$16.57	\$24.18	\$32.91	\$42.57	\$52.37	\$62.45
100% Impact	\$22.10	\$32.24	\$43.88	\$56.76	\$69.82	\$83.26

Additional Contribution Requirement

Range	Fiscal Year Ending June 30					
	2020	2021	2022	2023	2024	2025
25% Impact	\$ 105,100	\$ 153,300	\$ 208,600	\$ 269,800	\$ 331,900	\$ 395,800
Average Impact	\$ 210,100	\$ 306,500	\$ 417,200	\$ 539,600	\$ 663,800	\$ 791,500
75% Impact	\$ 315,200	\$ 459,800	\$ 625,700	\$ 809,400	\$ 995,600	\$ 1,187,300
100% Impact	\$ 420,200	\$ 613,000	\$ 834,300	\$ 1,079,200	\$ 1,327,500	\$ 1,583,100

Please note that it is unclear from the legislation whether this bill would apply to prior deaths and disabilities. Allowing retroactive application of this provision, for deaths and disabilities incurred prior to July 1, 2019, could cost significantly more with estimated additional annual contributions ranging from \$1.8 – \$2.4 million over the next 6 years.

The results were developed using the LODA Fund’s claim incidence experience for the cause of “Hypertension or Heart Disease” and “Infectious Disease” coupled with the proportion of correctional officers and Department of Motor Vehicles (DMV) full-time equivalent (FTEs) enforcement officers to the LODA Fund in total. All other valuation assumptions and methods are those used and disclosed in the “Report on the Actuarial Valuation of the Line of Duty Act Fund, Prepared as of June 30, 2018”.

These cost increase assumptions would apply pro rata to individual localities that are funding LODA costs independently from the Fund.

The legislation would also increase the number of VRS work-related disability retirements by an unknown amount. Currently, individuals disabled by these cancer types would be retired under regular disability retirement provisions (i.e., from a cause not compensable under the Workers’ Compensation Act). The legislation would make it more likely that someone disabled by these types of cancer would be retired under the provisions of work-related disability retirement. Because work-related disability retirement is a more expensive benefit, there would be an unknown increase over time for employer contributions for those employers whose employees become disabled and retire under these provisions. Because most state employees are now covered under the Virginia Sickness and Disability Program, the impact on employer contribution rates due to increased work-related disability retirements would primarily be for political subdivisions.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Human Resource Management, Department of Motor Vehicles, Virginia Retirement System, agencies that

employ correctional officers, all state agencies with LODA eligible personnel, all localities with LODA eligible personnel, and Virginia Workers' Compensation Commission.

10. Technical Amendment Necessary: No.

11. Other Comments: The proposed legislation is similar to House Bill 2618 (Heretick).

This bill adds correctional officers, as defined in § 53.1-1, Code of Virginia, and full-time sworn members of the enforcement division of DMV to the category of employees who are eligible for the presumption that a death or disability caused by hypertension or heart disease is work related unless such presumption is overcome by a preponderance of competent evidence to the contrary. The bill also adds correctional officers as defined in § 53.1-1 to the category of employees who are eligible for the presumption that a death or disability caused by certain infectious diseases is work related unless such presumption is overcome by a preponderance of competent evidence to the contrary.

The addition of these employees to those eligible for these presumptions would, over time, have an impact on LODA costs for employers who participate in the Fund. Correctional officers, as defined in § 53.1-1, Code of Virginia, and full-time sworn members of the enforcement division of DMV are covered under LODA and the addition of this presumption will likely lead to an increase in the number of individuals who become eligible for LODA benefits. There are approximately 6,500 correctional officers and 75 full-time sworn members of the enforcement division of DMV; the increase in LODA death and disability determinations is likely to be material.