

## Department of Planning and Budget 2018 Fiscal Impact Statement

**1. Bill Number:** SB352

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

**2. Patron:** Peake

**3. Committee:** Commerce and Labor

**4. Title:** Workers' compensation; presumption of compensability for certain diseases

**5. Summary:** Adds lymphoma, non-Hodgkin lymphoma, and cancers of the colon, brain, and testes to the list of cancers that are presumed to be an occupational disease covered by the Virginia Workers' Compensation Act when firefighters and certain employees develop them. The measure also reduces, from 12 years to five years, the minimum number of years of continuous service that such firefighters and other employees are required to have completed in order to qualify for the presumption that such a condition is an occupational disease suffered in the line of duty.

**6. Budget Amendment Necessary:** Indeterminate – see Item 8.

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

**8. Fiscal Implications:** The Department of Human Resource Management's Workers' Compensation program provided an updated examination of its claims data and the examination did not return any claims filed for a cancer under this statute. Certain agencies are named in the statute, so if claims are incurred, the affected employing agency would be expected to bear the increased cost through experience-based premiums.

Cancer claims can be very expensive and result in death benefits to surviving family members. While the program does not have any claims under this statute, there is one claim, filed posthumously, for a cancer of the heart that the Virginia Workers' Compensation Commission (VWC) awarded under the heart/lung presumption as a heart disease. In that case, because the injured worker was deceased when the claim was filed, there were no medical benefits awarded, only lost wage benefits for the widow and eligible children, plus burial expenses. The total paid to date on that claim is \$260,497 and the estimated total cost of the claim is \$469,870.

According to the Virginia Retirement System (VRS), because the Virginia Line of Duty Act (LODA) 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 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, as well as costs for localities that have opted to cover LODA expenses independently of the Fund.

In order to obtain an estimate of the impact of adding specific cancers to the presumptions, VRS adjusted the LODA valuation model's current cost assumptions to reflect the estimated impact to expected cash flows:

- 3.61% increase to health care claims and Health Insurance Credit Program (HIC) receipts.
- 10.8% increase to death benefit claims.

The average impact of applying the legislation prospectively (deaths and disabilities occurring on or after July 1, 2018) is shown below:

#### Cost Impact SB 352 on the LODA Fund

Item	Fiscal Year Ending June 30					
	2019	2020	2021	2022	2023	2024
Employer Contribution Rate (\$ Per FTE)						
Number of FTE Employees	18,733.80	18,733.80	18,733.80	18,733.80	18,733.80	18,733.80
SB 352 Basis - Prospective Only	\$708.36	\$709.67	\$838.25	\$908.11	\$972.70	\$1,045.81
June 30, 2017 Valuation	<u>\$705.77</u>	<u>\$705.77</u>	<u>\$832.90</u>	<u>\$901.14</u>	<u>\$963.97</u>	<u>\$1,035.21</u>
Additional Cost per FTE	\$2.59	\$3.90	\$5.35	\$6.97	\$8.73	\$10.60
Estimated Additional Contributions	\$48,500	\$73,100	\$100,200	\$130,600	\$163,500	\$198,600

Because of the unpredictable nature of future claims, VRS also included a range of possible cost impacts in addition to the median expected claims shown above. Due to the number of cancers presumed, costs may likely be expected to be above the average impact.

#### Cost Impact SB 352 on the LODA Fund Additional Cost Per FTE

Range	Fiscal Year Ending June 30					
	2019	2020	2021	2022	2023	2024
25% Impact	\$1.30	\$1.95	\$2.68	\$3.49	\$4.37	\$5.30
Average Impact	\$2.59	\$3.90	\$5.35	\$6.97	\$8.73	\$10.60
75% Impact	\$3.24	\$4.88	\$6.69	\$8.71	\$10.91	\$13.25
100% Impact	\$5.18	\$7.80	\$10.70	\$13.94	\$17.46	\$21.20

#### Additional Contribution Requirement

Range	Fiscal Year Ending June 30					
	2019	2020	2021	2022	2023	2024
25% Impact	\$ 24,300	\$ 36,500	\$ 50,100	\$ 65,300	\$ 81,800	\$ 99,300
Average Impact	\$ 48,500	\$ 73,100	\$ 100,200	\$ 130,600	\$ 163,500	\$ 198,600
75% Impact	\$ 60,700	\$ 91,300	\$ 125,300	\$ 163,200	\$ 204,400	\$ 248,200
100% Impact	\$ 97,000	\$ 146,100	\$ 200,500	\$ 261,100	\$ 327,100	\$ 397,200

It is unclear from the proposed legislation whether the provisions would apply to prior deaths and disabilities due to these cancers. Allowing retroactive application of this provision, for deaths and disabilities incurred prior to July 1, 2018, could cost significantly more. Initial estimates when including prior claims added more than \$500,000 per year in additional annual premiums to apply the bill retroactively.

The results were developed using the LODA Fund's claim incidence experience for the cause of "Cancer" as provided for the for the June 30, 2017 valuation. Based on analysis of this data, along with analysis of national average disability claims statistics due to cancer and the analysis of statistics regarding cancer incidence due to environmental toxins, VRS assumed that all members coded with a cause of "Cancer" whose claims were initially denied or considered not Line of Duty would be now be approved under SB 352. 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, 2017".

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

- 9. Specific Agency or Political Subdivisions Affected:** Department of Human Resource Management, Virginia Retirement System, personnel eligible for LODA, and Virginia Workers' Compensation Commission

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** According to VRS, because the Line of Duty Act, Va. Code § 9.1-400 et seq., (LODA) references Workers' Compensation presumptions in determining disability for certain categories of covered employees, any expansion of the presumptions will have an impact on LODA costs. It is difficult to determine exactly what the impact would be. The Line of Duty Death and Health Benefits Trust 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 disabilities would 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.

It is uncertain how many individuals would qualify for LODA benefits under the provisions of this bill, and as such, the fiscal impact to the LODA Fund (Fund) is indeterminate. However, the addition of categories of presumptions 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.