

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB52

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: Knight

3. Committee: Labor and Commerce

4. Title: Workers' compensation; occupational disease presumption, emergency medical technicians.

5. Summary: Establishes a presumption that hypertension or heart disease causing the death or disability of full-time salaried emergency medical technicians employed by the City of Virginia Beach is an occupational disease compensable under the Virginia Workers' Compensation Act.

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 Line of Duty Act (LODA) claims as well as 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. Any increase in the number of LODA claims or groups of employees who are eligible for certain presumptions will increase costs. All state agencies with eligible employees are in the LODA Fund, and the premiums would be projected to increase as estimated below. However, the volume of the impact on VRS or the City of Virginia Beach is not known at this time.

7. Fiscal Impact Estimates: Indeterminate – see Item 8.

8. Fiscal Implications: The bill adds full-time salaried emergency medical technicians employed by the City of Virginia Beach 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.

Hazardous duty employees in a locality that has elected enhanced benefits, like Virginia Beach, are eligible for traditional disability retirement. In addition to the effects this legislation may have on workers' compensation, the bill could also affect eligibility for VRS traditional disability retirement because VRS relies on the compensability determination by the Virginia Workers' Compensation Commission for its determination of whether a disability retirement claim is work- or non-work-related. 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.

Additionally, because the Virginia Line of Duty Act (LODA), Chapter 4, Title 9.1 of the Code of Virginia, uses certain workers' compensation presumptions 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 full-time salaried emergency medical technicians employed by the City of Virginia Beach, who are covered under LODA and the Line of Duty Death and Health Benefits Fund (Fund), would add to the costs for the Fund. The Fund includes all state agencies and participating local governments. The City of Virginia Beach participates in the Line of Duty Death and Health Benefits Fund. This change could also increase costs for localities that have opted to cover LODA expenses independent of the Fund (nonparticipating employers) as a result of plan experience.

Analysis of historical LODA claim data shows that a large number of deaths and disabilities are due to hypertension and heart diseases. In order to obtain an estimate of the impact of adding full-time salaried emergency medical technicians employed by the City of Virginia Beach to the LODA presumptions, VRS adjusted the LODA valuation model's current cost assumptions to reflect the estimated impact to expected cash flows. Based on the current number of full-time salaried emergency medical technicians employed by the City of Virginia Beach covered by LODA, 68 out of the 19,243 full-time equivalent (FTE) employees covered by the LODA Fund, VRS estimated the following adjustment to the valuation model's current cost assumptions to reflect the estimated impact to cash flows:

- Approximate 0.1% increase to health care claims.
- Approximate 0.2% increase to death benefit claims.

The average impact of applying the legislation prospectively (deaths and disabilities occurring on or after July 1, 2020) is shown below:

Cost Impact on the LODA Fund – Prospective Application

Item	Fiscal Year Ending June 30					
	2021	2022	2023	2024	2025	2026
Employer Contribution Rate (\$ Per FTE)						
Number of FTE Employees	19,243.35	19,243.35	19,243.35	19,243.35	19,243.35	19,243.35
Proposed Legislation - Prospective Only	\$695.28	\$695.33	\$896.73	\$896.77	\$1,007.42	\$1,007.47
June 30, 2019 Valuation	<u>\$695.18</u>	<u>\$695.18</u>	<u>\$896.53</u>	<u>\$896.53</u>	<u>\$1,007.13</u>	<u>\$1,007.13</u>
Additional Cost per FTE	\$0.10	\$0.15	\$0.20	\$0.24	\$0.29	\$0.34
Estimated Additional Contributions	\$1,900	\$2,900	\$3,800	\$4,600	\$5,600	\$6,500

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					
	2021	2022	2023	2024	2025	2026
25% Impact	\$0.05	\$0.08	\$0.10	\$0.12	\$0.15	\$0.17
Average Impact	\$0.10	\$0.15	\$0.20	\$0.24	\$0.29	\$0.34
75% Impact	\$0.15	\$0.23	\$0.30	\$0.36	\$0.44	\$0.51
100% Impact	\$0.20	\$0.30	\$0.40	\$0.48	\$0.58	\$0.68

Additional Contribution Requirement

Range	Fiscal Year Ending June 30					
	2021	2022	2023	2024	2025	2026
25% Impact	\$ 1,000	\$ 1,400	\$ 1,900	\$ 2,300	\$ 2,800	\$ 3,300
Average Impact	\$ 1,900	\$ 2,900	\$ 3,800	\$ 4,600	\$ 5,600	\$ 6,500
75% Impact	\$ 2,900	\$ 4,300	\$ 5,800	\$ 6,900	\$ 8,400	\$ 9,800
100% Impact	\$ 3,800	\$ 5,800	\$ 7,700	\$ 9,200	\$ 11,200	\$ 13,100

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, 2020 could cost significantly more as shown below.

Cost Impact on the LODA Fund – Retroactive Application

Item	Fiscal Year Ending June 30					
	2021	2022	2023	2024	2025	2026
Employer Contribution Rate (\$ Per FTE)						
Number of FTE Employees	19,243.35	19,243.35	19,243.35	19,243.35	19,243.35	19,243.35
Proposed Legislation - Retroactive	\$696.44	\$696.09	\$897.51	\$897.58	\$1,008.24	\$1,008.30
June 30, 2019 Valuation	<u>\$695.18</u>	<u>\$695.18</u>	<u>\$896.53</u>	<u>\$896.53</u>	<u>\$1,007.13</u>	<u>\$1,007.13</u>
Additional Cost per FTE	\$1.26	\$0.91	\$0.98	\$1.05	\$1.11	\$1.17
Estimated Additional Contributions	\$24,200	\$17,500	\$18,900	\$20,200	\$21,400	\$22,500

The results were developed using the LODA Fund’s claim incidence experience for the cause of “Hypertension or Heart Disease” coupled with the proportion of full-time salaried emergency medical technicians employed by the City of Virginia Beach FTEs 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, 2019”.

While the proposed legislation is narrowly crafted to include only full-time salaried emergency medical technicians from the City of Virginia Beach, it should be noted that there are hundreds of other emergency medical technicians across the Commonwealth of Virginia who may also request this provision, which would add additional costs to the LODA and disability programs.

The legislation would also increase the number of VRS work-related disability retirements by an unknown amount for those members who are eligible for disability retirement. Currently, full-time salaried emergency medical technicians employed by the City of Virginia Beach disabled by these types of diseases and who are eligible for disability retirement 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 a full-time salaried emergency medical technician employed by the City of Virginia Beach disabled by these types of diseases and who is eligible for disability retirement 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. A comparison of work-related and non-work-related disability retirement benefits is shown below.

Work Related Disability Retirement	Non-work-related Disability Retirement
Member receives balance in member contribution account	Member does not receive balance in member contribution account
Minimum benefit guarantee is 66 2/3 percent of AFC if member does not qualify for social security disability income and 50 percent of AFC if he or she does qualify for SSDI	Minimum benefit guarantee is 33 1/3 percent of AFC if member does qualify for social security disability income and 50 percent of AFC if he or she does not qualify for SSDI
Disability retirement benefit is non-taxable	Disability retirement benefit is taxable
Disability retirement benefit is offset by Workers' Compensation wage indemnity benefit	No Workers' Compensation wage indemnity benefit

Because work-related disability retirement is a more expensive benefit, there would be an unknown increase over time for employer contributions for the City of Virginia Beach for employees who become disabled and retire under these provisions.

According to the Department of Human Resource Management (DHRM), the proposed legislation is not expected to have a fiscal impact on its Office of Workers' Compensation because DHRM does not provide workers' compensation coverage for the City of Virginia Beach.

9. Specific Agency or Political Subdivisions Affected: VRS as administrator of the LODA Fund, Department of Human Resource Management, City of Virginia Beach, all state agencies with LODA eligible personnel, localities with LODA eligible personnel, and the Virginia Workers' Compensation Commission.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill would add full-time salaried emergency medical technicians employed by the City of Virginia Beach 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.

Because the Line of Duty Act, Code of Virginia § 9.1-400 et seq., references certain Workers' Compensation presumptions in determining disability for certain categories of covered employees, any addition of employees to those eligible for these presumptions would, over time, have an impact on LODA costs for employers that participate in the Fund. It is difficult to determine exactly what the impact would be. 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 disabilities would therefore impact not only the City of Virginia Beach, but also state general and nongeneral fund contributions on behalf of state agencies, as well as all political subdivisions with LODA eligible employees or volunteers. Full-time salaried emergency medical technicians employed by the City of Virginia Beach 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. As of June 30, 2019, there were approximately 68 full-time salaried emergency medical technicians employed by the City of Virginia Beach.

It is uncertain how many full-time salaried emergency medical technicians employed by the City of Virginia Beach would qualify for LODA benefits under the provisions of this bill, and as such, the fiscal impact to the Fund is indeterminate and the costs indicated above are estimates only. However, 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. An increase in LODA Health Benefits Plan costs would also affect the costs for political subdivisions with LODA eligible employees or volunteers who either self-insure for LODA costs or use a private insurance carrier. Additionally, the Fund is funded on a pay-as-you-go basis, so to the extent that 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 both 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. Even though this bill specifically includes full-time salaried emergency medical technicians employed by the City of Virginia Beach, higher LODA contribution rates would require additional general fund and nongeneral fund support to state agencies with LODA-eligible personnel.

In December 2019, JLARC delivered its report, Virginia's Workers' Compensation System and Disease Presumptions. See <http://jlarc.virginia.gov/pdfs/reports/Rpt530.pdf> for a copy of the full report.