

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB649

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: Campbell, R.R.

3. Committee: Labor and Commerce

4. Title: Workers' compensation; occupational disease presumption; police dispatchers.

5. Summary: Establishes a presumption that hypertension or heart disease causing the death or disability of full-time salaried police dispatchers 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 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. Police dispatchers are not currently included in the statutory list of positions that are covered by the Line of Duty Act (LODA). However, the volume of the impact is not known at this time.

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

8. Fiscal Implications: The bill adds full-time, salaried police dispatchers to the list of public safety employees who are entitled to a presumption that hypertension or heart disease causing death or disability are occupational diseases under the Virginia Workers' Compensation Act.

According to VRS, some state employees are still eligible for disability retirement; others, including most employees hired or rehired after January 1, 1999, are covered by the Virginia Sickness and Disability Program (VSDP), which is a managed disability plan that does not provide a lifetime benefit. In addition to the effects this 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. Local employees hired on or after January 1, 2014, with the exception of hazardous duty employees whose localities have elected enhanced benefits, are covered by the Hybrid Retirement

Program, which includes coverage by the Virginia Local Disability Program (VLDP) or a comparable local plan. VLDP and VSDP use workers' compensation determinations for approving work-related short- and long-term disability benefits and this change would likely increase the number of claims approved.

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. VRS does not track police dispatchers as a separate job description, so cannot provide possible impact details.

The legislation would likely 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 police dispatchers 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 Virginia Workers' Compensation Act). The legislation would make it more likely that a full-time, salaried police dispatcher disabled by these types of diseases and who is eligible for disability retirement would be retired under the provisions of work-related disability retirement. 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 those employers whose employees become disabled and retire under these provisions.

According to the Department of Human Resource Management (DHRM), the agency may experience an increase in the number of claims filed with the Office of Workers' Compensation (OWC); however, the administrative costs associated with the increase in workers' compensation claims filed are expected to be minimal. The Commonwealth's workers' compensation premiums are experienced-based and the state agencies that employ the affected employees would be responsible for any increase in workers' compensation premiums that may result due to the passage of the proposed legislation; however, the potential increase in workers' compensation premiums cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: VRS, agencies that employ police dispatchers, localities that employ police dispatchers, Department of Human Resource Management, and the Virginia Workers' Compensation Commission.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill would add full-time, salaried state and local police dispatchers 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 addition of police dispatchers to the group of employees who are entitled to this presumption could increase traditional disability work-related retirements and could also lead to an increase in VSDP and VLDP short- and long-term disability claims.

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.