

Department of Planning and Budget 2021 Special Session 1 Fiscal Impact Statement

1. Bill Number: SB1275-ES1

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

2. Patron: Marsden

3. Committee: Appropriations

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

5. Summary: Provides that the occupational disease presumption for death caused by hypertension or heart disease will apply for salaried or volunteer emergency medical services personnel who (i) have at least five years of service (ii) are operating in a locality that has legally adopted a resolution declaring that it will provide one or more of such presumptions and (iii) meets any minimum hours worked requirements established in such resolution. The provisions of this act shall not apply to any individual who was diagnosed with hypertension or heart disease before July 1, 2021.

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

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

8. Fiscal Implications: According to the Department of Human Resource Management (DHRM), the experience-based workers' compensation premium paid by state agencies whose employees would be covered with the presumption of compensability is likely to increase; however, the fiscal impact for those affected agencies cannot be determined at this time. Based on a review of the Office of Workers' Compensation (OWC) claims data, there was 1 claim filed and awarded by the Virginia Workers' Compensation Commission 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 estimated total benefit on this claim is \$470,000. DHRM's OWC has also accepted a claim that was for work-related hypertension, which will likely remain open for medical benefits for the injured worker's lifetime. This claim is currently estimated to have a total benefit amount of \$510,000. These claims, when accepted, are typically high dollar claims, and the presumption may lead to an increase in accepted claims as the burden to prove compensability will be removed.

Virginia Retirement System

Analysis of historical Line of Duty Act (LODA) claims data show that a large number of deaths and disabilities are due to hypertension and heart diseases. Based on the current number of salaried and volunteer medical emergency service personnel covered by LODA, 1,555 out of 19,989 full-time equivalent employees covered by the LODA Fund, the Virginia

Retirement System (VRS) estimates the following adjustment to the valuation model's current cost assumptions to reflect the estimated impact to cash flows:

- Approximate 20% increase to health care claims for emergency medical personnel.
- Approximate 75% increase to death benefit claims for emergency medical personnel.

The average impact of applying the legislation prospectively (deaths and disabilities occurring on or after July 1, 2021) 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	19,989.05	19,989.05	19,989.05	19,989.05	19,989.05	19,989.05
Proposed Legislation - Prospective Only	\$719.91	\$720.91	\$876.21	\$877.46	\$1,032.59	\$1,033.99
June 30, 2020 Valuation	\$717.31	\$717.31	\$871.51	\$871.51	\$1,025.39	\$1,025.39
Additional Cost per FTE	\$2.60	\$3.60	\$4.70	\$5.95	\$7.20	\$8.60
Estimated Additional Contributions	\$52,000	\$72,000	\$93,900	\$118,900	\$143,900	\$171,900

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	\$1.30	\$1.80	\$2.35	\$2.98	\$3.60	\$4.30
Average Impact	\$2.60	\$3.60	\$4.70	\$5.95	\$7.20	\$8.60
75% Impact	\$3.90	\$5.40	\$7.05	\$8.93	\$10.80	\$12.90
100% Impact	\$5.20	\$7.20	\$9.40	\$11.90	\$14.40	\$17.20

Additional Contribution Requirement

Range	Fiscal Year Ending June 30					
	2021	2022	2023	2024	2025	2026
25% Impact	\$ 26,000	\$ 36,000	\$ 47,000	\$ 59,500	\$ 72,000	\$ 86,000
Average Impact	\$ 52,000	\$ 72,000	\$ 93,900	\$ 118,900	\$ 143,900	\$ 171,900
75% Impact	\$ 78,000	\$ 107,900	\$ 140,900	\$ 178,400	\$ 215,900	\$ 257,900
100% Impact	\$ 103,900	\$ 143,900	\$ 187,900	\$ 237,900	\$ 287,800	\$ 343,800

In addition to LODA, the proposed legislation may impact VRS disability retirement, Virginia Sickness and Disability Program (VSDP), and Virginia Local Disability Program (VLDP) benefits. However, the fiscal impact for the VRS disability retirement, VSDP, and VLDP benefits cannot be determined at this time.

The retirement allowance calculation for a VRS disability retirement depends on whether the disabling condition is work-related. If the disabling condition is not compensable under the

Workers' Compensation Act, then it is not a work-related disability. If the disabling condition is compensable under the Workers' Compensation Act, then it is a work-related disability. Members retiring due to a work-related disability receive a higher VRS disability retirement benefit. Any bill that impacts the likelihood of compensability under the Workers' Compensation Act impacts the likelihood that a VRS member's disabling disease or condition will be considered work-related.

VRS managed disability programs include the Virginia Sickness and Disability Program (VSDP) for state employees and the Virginia Local Disability Program (VLDP) or a comparable plan for local employees who are in the Hybrid Retirement Plan. In both VSDP and VLDP, the calculation of benefits depends on whether the disabling condition is work-related. If the disabling condition is not compensable under the Workers' Compensation Act, then it is not a work-related disability. If the disabling condition is compensable under the Workers' Compensation Act, then it is a work-related disability. Members receiving VSDP, VLDP, or comparable benefits due to a work-related disability receive a higher benefit. Any bill that impacts the likelihood of compensability under the Workers' Compensation Act impacts the calculation of VSDP and VLDP benefits.

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

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** This bill is similar to HB 1818-H1 (Heretick).