Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** HB169

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

2. **Patron:** Tyler

3. **Committee:** Labor and Commerce

4. **Title:** Workers' compensation; occupational disease presumption; correctional officers.

5. **Summary:** 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**: No. 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 is not known at this time.

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

8. **Fiscal Implications:** The bill adds correctional officers to the list of public safety employees who are entitled to a presumption that certain infectious diseases 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 care 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 automatically approves disability retirements as work-related if the employee is approved for Workers' Compensation and otherwise qualifies for a disability retirement benefit. Increasing the population eligible for benefits will impact the VRS plan experience and by extension potentially increase contribution rates. VSDP also uses Worker's

Compensation determinations for approving work-related short- and long-term disability benefits.

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 all state agencies, as well as local governments that participate in the Fund.

Analysis of historical LODA claim data shows that there have only been a small number of deaths and disabilities associated with infectious diseases. Based on the current percentage of corrections employees covered by LODA, approximately 35 percent of employees are 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 1 percent increase to health care claims.
- Approximate 1 percent 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	$696.01	$696.43	$898.19	$898.61	$1,009.68	$1,010.14
June 30, 2019 Valuation	$695.18	$695.18	$896.53	$896.53	$1,007.13	$1,007.13
Additional Cost per FTE	$0.83	$1.25	$1.66	$2.08	$2.55	$3.01
Estimated Additional Contributions	$16,000	$24,000	$32,000	$40,000	$49,000	$58,000

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.

Cost Impact on the LODA Fund
Additional Cost Per FTE

Range	Fiscal Year Ending June 30					
	2021	2022	2023	2024	2025	2026
25% Impact	$0.42	$0.62	$0.83	$1.04	$1.27	$1.51
Average Impact	$0.83	$1.25	$1.66	$2.08	$2.55	$3.01
75% Impact	$1.25	$1.87	$2.49	$3.12	$3.82	$4.52
100% Impact	$1.66	$2.49	$3.33	$4.16	$5.09	$6.03

Additional Contribution Requirement

Range	Fiscal Year Ending June 30					
	2021	2022	2023	2024	2025	2026
25% Impact	$ 8,000	$ 12,000	$ 16,000	$ 20,000	$ 24,500	$ 29,000
Average Impact	$ 16,000	$ 24,000	$ 32,000	$ 40,000	$ 49,000	$ 58,000
75% Impact	$ 24,000	$ 36,000	$ 48,000	$ 60,000	$ 73,500	$ 87,000
100% Impact	$ 32,000	$ 48,000	$ 64,000	$ 80,000	$ 98,000	$ 116,000

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. The average impact of applying the legislation retroactively (deaths and disabilities incurred prior to or after July 1, 2020) is 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	$705.51	$703.34	$905.26	$905.94	$1,017.06	$1,017.63
June 30, 2019 Valuation	$695.18	$695.18	$896.53	$896.53	$1,007.13	$1,007.13
Additional Cost per FTE	$10.33	$8.16	$8.73	$9.41	$9.93	$10.50
Estimated Additional Contributions	$198,900	$157,000	$168,000	$181,000	$191,000	$202,000

The results were developed using the LODA Fund's claim incidence experience for the cause of "Infectious Disease" coupled with the proportion of correctional officers 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".

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 for those members who are eligible for disability retirement. Currently, correctional officers disabled by these types of diseases 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 correctional officer 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. Because most state employees are now covered under the VSDP, the impact on employer contribution rates due to increased work-related disability retirements would primarily be for political subdivisions.

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

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** This bill would add 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, 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 6,600 correctional officers. Therefore, the increase in LODA death and disability determinations is likely to be material.