

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB265

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

2. Patron: Bell

3. Committee: Commerce and Labor

4. Title: Workers' compensation; occupational disease presumptions.

5. Summary: Adds correctional officers and full-time sworn members of the enforcement division of the Department of Motor Vehicles to the list of public safety employees who are entitled to presumptions that hypertension, heart disease, and certain infectious diseases are occupational diseases compensable under the Virginia Workers' Compensation Act.

6. Budget Amendment Necessary: Indeterminate. 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 in Item 8. 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 and full-time sworn members of the enforcement division of the Department of Motor Vehicles (DMV) 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. The bill also adds correctional officers and full-time sworn members of the enforcement division of the DMV 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, 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. 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 and full-time sworn members of the enforcement division of the DMV, 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 a large number of deaths and disabilities are due to hypertension and heart diseases. There have only been a small number of deaths and disabilities associated with infectious diseases. Based on the current percentage of corrections employees and full-time sworn members of the enforcement division of DMV 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 11 percent increase to health care claims.
- Approximate 21 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	\$706.22	\$710.68	\$916.87	\$922.07	\$1,037.98	\$1,043.39
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	\$11.04	\$15.50	\$20.34	\$25.54	\$30.85	\$36.26
Estimated Additional Contributions	\$212,400	\$298,300	\$391,300	\$491,400	\$593,600	\$697,700

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	\$5.52	\$7.75	\$10.17	\$12.77	\$15.42	\$18.13
Average Impact	\$11.04	\$15.50	\$20.34	\$25.54	\$30.85	\$36.26
75% Impact	\$16.55	\$23.25	\$30.50	\$38.31	\$46.27	\$54.39
100% Impact	\$22.07	\$31.00	\$40.67	\$51.08	\$61.69	\$72.52

Additional Contribution Requirement

Range	Fiscal Year Ending June 30					
	2021	2022	2023	2024	2025	2026
25% Impact	\$ 106,200	\$ 149,200	\$ 195,700	\$ 245,700	\$ 296,800	\$ 348,900
Average Impact	\$ 212,400	\$ 298,300	\$ 391,300	\$ 491,400	\$ 593,600	\$ 697,700
75% Impact	\$ 318,500	\$ 447,500	\$ 587,000	\$ 737,200	\$ 890,400	\$ 1,046,600
100% Impact	\$ 424,700	\$ 596,600	\$ 782,700	\$ 982,900	\$ 1,187,100	\$ 1,395,500

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	\$827.95	\$792.18	\$1,000.21	\$1,008.30	\$1,124.68	\$1,131.35
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	\$132.77	\$97.00	\$103.68	\$111.77	\$117.55	\$124.22
Estimated Additional Contributions	\$2,554,900	\$1,866,700	\$1,995,100	\$2,150,800	\$2,262,100	\$2,390,500

The results were developed using the LODA Fund’s claim incidence experience for the cause of “Hypertension or Heart Disease” and “Infectious Disease” coupled with the proportion of correctional officers and full-time sworn members of the enforcement division of the DMV 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 and full-time sworn members of the enforcement division of the DMV 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 correctional officers or full-time sworn members of the enforcement division of the DMV disabled by these types of diseases and who are 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.

This fiscal impact for DMV and state agencies that employ correctional officers cannot be determined at this time. According to the Department of Human Resource Management (DHRM), the impacted state agencies would be responsible for the increase in costs of workers' compensation claims covered by the proposed legislation because the Commonwealth's workers' compensation premiums are experience-based. The costs associated with pre-employment and annual testing would also be directly borne by the impacted state agencies and not paid by the State Employee Workers' Compensation Services program.

- 9. Specific Agency or Political Subdivisions Affected:** VRS, DHRM, DMV, agencies that employ correctional officers, 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 correctional officers, as defined in § 53.1-1, and full-time sworn members of the enforcement division of DMV 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 bill would also add correctional officers as defined in § 53.1-1, and full-time sworn members of the enforcement division of DMV 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 that participate in the Fund. Correctional officers, as defined in § 53.1-1, and full-time sworn members of the enforcement division of DMV 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 and 72 full-time sworn members of the enforcement division of DMV. Therefore, the increase in LODA death and disability determinations is likely to be material.