

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: HB1763

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Guzman

3. Committee: Commerce and Energy

4. Title: Workers' compensation; injuries caused by repetitive and sustained physical stressors.

5. Summary: Provides that, for the purposes of the Virginia Workers' Compensation Act, "occupational disease" includes injuries or diseases from conditions resulting from repetitive and sustained physical stressors, including repetitive and sustained motions, exertions, posture stresses, contact stresses, vibrations, or noises. The bill provides that such injuries or diseases are covered under the Act and that such coverage does not require that the injuries or diseases occurred over a particular time period, provided that such time period can be reasonably identified.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: According to the Department of Human Resource Management (DHRM), the proposed legislation is expected to have a fiscal impact on DHRM's Office of Workers' Compensation (OWC), Attorney General and Department of Law (OAG) Workers' Compensation Unit, and state agencies covered through the state's workers' compensation program.

Repetitive motion injuries are very common because they encompass many types of injuries from carpal tunnel and rank very high compared to other injuries. The types of occupations at risk from repetitive motion injuries range from clerical to manual/physical types of jobs where the employee performs the same motion over and over. In DHRM's review of OWC claim files, 1,205 claims involving repetitive motion were filed over the last 12 years, of which 929 (approximately 77%) were denied. The average cost for the accepted claims was approximately \$56,000 per claim. Using the average cost per claim, the OWC could have incurred an estimated \$67,480,000 for the claims reported.

The expected increase in repetitive motion injury claims may lead to an increase in the annual experience-based workers' compensation premium paid by state agencies. DHRM is unable to determine which agencies would be impacted the most by the proposed legislation;

however, injuries due to repetitive and sustained physical stressors are very common, and the projected premium increase could impact all state agencies covered by DHRM's workers' compensation program.

DHRM also anticipates additional claims staff in its OWC program would be needed to conduct investigations. The OWC expects it would need up to four lost time benefit coordinators to support the expected increase in accepted claims that will need to be investigated.

According to the OAG, its Workers' Compensation Unit estimates it would need one lawyer for each 100 claims, and one additional support staff person for every 150 new claims. The OAG's Workers' Compensation Unit handled 390 cases in 2020 and 370 cases in 2021, averaging about 100 cases per attorney. This bill will increase claims and related litigation, but it is not possible to estimate the number of litigated claims that will result. The funding for the additional staff would be supported through an increase in the memorandum of understanding (MOU) with DHRM, or additional appropriation provided to the OAG's Workers' Compensation Unit.

Although the number of workers' compensation claims is expected to increase, the Virginia Workers' Compensation Commission projects that the bill will not have a significant fiscal impact upon the agency unless the claims become the liability of the Uninsured Employer's Fund, which provides compensation benefits awarded against any uninsured or self-insured employer.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Human Resource Management, Attorney General and Department of Law, Virginia Workers' Compensation Commission, and all state agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.