

Virginia Retirement System

2023 Fiscal Impact Statement

1. **Bill Number:** SB 1228 S1

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

2. **Patron Prior to Substitute:** Obenshain

3. **Committee:** Judiciary

4. **Title:** Line of Duty Act; campus police officers; contributing private institutions of higher education.

5. **Summary:** Allows nonprofit private colleges and universities in Virginia to elect to participate in the Line of Duty Act (LODA) for certified law enforcement officers in campus police departments.

6. **Summary of Impacts**

Benefit(s) impacted: The substitute changes existing statute to allow nonprofit private college public safety departments to make a one-time irrevocable election to participate in LODA for their campus police officers, including the LODA Health Benefits Plans administered by DHRM. The substitute does not allow participation for campus security officers. No other private employers are authorized to provide LODA benefits to their employees. For-profit private colleges in Virginia would not be eligible to elect to provide LODA benefits under the substitute.

Impact to unfunded liability (see Item 9 for details): Does not impact VRS unfunded liability or VRS contribution rates.

Impact to LODA premium rate(s) (see Item 9 for details): Nonprofit private colleges and universities that elect to provide LODA benefits will participate in the VRS-administered Line of Duty Death and Health Benefits Trust Fund (LODA Fund), and their headcounts and experience will impact premium rates for all participating employers in the Fund. As this represents a relatively small population, the impacts may be limited. However, ultimate costs will be based on the costs of the claims incurred and overall plan experience. LODA is a pay-as-you-go pooled plan, which means that premiums are paid by all participating employers and contributing nonprofit private colleges each year to cover expected benefits, and all premiums will be used to pay benefits for any eligible employees.

Specific Agency or Political Subdivisions Affected (see Item 10): VRS, DHRM, and all LODA participating employers. Will also impact Virginia nonprofit private colleges and universities that elect to participate in LODA.

VRS cost to implement (see Item 7 and Item 8 for details): Approximately \$35,000 in one-time implementation costs. Potential increases to ongoing LODA administration costs

are indeterminate, depending on the number of nonprofit private colleges that elect to participate. This does not include DHRM's costs to implement the substitute.

DHRM cost to implement (see Item 7 and Item 8 for details): DHRM indicates there will be minimal implementation costs.

Employer cost to implement (see Item 7 and Item 8 for details): Nonprofit private colleges and universities that elect to provide LODA benefits will need to pay the LODA premiums for their eligible employees for the upcoming fiscal year, provide any internal infrastructure needed to manage the process for the contributing nonprofit private college or university, and provide the required LODA training to eligible employees.

Other VRS, DHRM, and employer impacts (see Item 7, Item 9, Item 11, and Item 12 for details): VRS will incur administrative costs to implement the substitute, primarily for communications to employers and participants, and handbook and website changes. LODA Fund impacts will depend on the demographics of the employees and the claims experience. DHRM indicates that LODA Health Benefits Plans impacts will depend on the demographics of the employees and the claims experience. Nonprofit private higher education institutions that elect to provide LODA benefits to their eligible employees will also have undetermined implementation requirements.

GF budget impacts (see Item 8 for details): VRS' one-time implementation costs to provide LODA benefits to nonprofit private college and university employees cannot be borne by the VRS Trust Fund due to the exclusive benefit rule (*See* § 51.1-124.30(C) of the *Code of Virginia*, art. 10, § 11 of the Constitution of Virginia, and 26 U.S.C. § 401(a)). See Item 11 for suggested language that would allow implementation costs to be shared by the nonprofit private higher education institutions that elect to provide LODA benefits to their eligible employees. Otherwise, a GF appropriation will be required for VRS implementation costs. As nonprofit private colleges and universities with existing campus police departments in Virginia represent a relatively small population, the overall impacts may be limited. However, ultimate costs will be based on the costs of the claims incurred and plan experience and could impact future LODA premium rates. DHRM indicates there will be minimal implementation costs.

NGF budget impacts (see Item 8 for details): VRS' one-time implementation costs to provide LODA benefits to nonprofit private college and university employees cannot be borne by the VRS Trust Fund due to the exclusive benefit rule (*See* § 51.1-124.30(C) of the *Code of Virginia*, art. 10, § 11 of the Constitution of Virginia, and 26 U.S.C. § 401(a)). See Item 11 for suggested language that would allow implementation costs to be shared by the nonprofit private higher education institutions that elect to provide LODA benefits to their eligible employees. As nonprofit private colleges and universities with existing campus police departments in Virginia represent a relatively small population, the overall impacts may be limited. However, ultimate costs will be based on the costs of the claims incurred and plan experience and could impact future LODA premium rates.

7. **Budget Amendment Necessary:** Yes. See Item 8. If the nonprofit private higher education institutions are not paying the implementation costs on a pro-rata basis, VRS will need a GF appropriation of \$35,000 to cover these costs. DHRM indicates they do not need an appropriation to implement the substitute.

8. **Fiscal Impact Estimates:**

VRS Impact Estimates

VRS will incur administrative costs to implement the substitute, regardless of how many nonprofit private colleges opt in. We are generally estimating first-year implementation costs to be about \$35,000, primarily for communications to employers and participants, and handbook and website changes. For LODA-eligible participants who are not VRS members, administration is handled manually, so adding categories of employers and employees will increase the ongoing cost of administering LODA and thereby increase the LODA premium. There are additional factors, such as those discussed below, that will affect the one-time and ongoing administrative costs.

These cost estimates do not include DHRM's implementation or administrative costs or impacts to the LODA Health Benefit Plans premiums.

Since LODA is not a VRS benefit, the costs cannot be recovered from the VRS Trust Fund and will not impact VRS employer contribution rates or the VRS funded status. However, the administrative costs will impact premiums for employers that participate in the LODA Fund. Since LODA is a pay-as-you-go fund, VRS cannot use the LODA Fund as the source for administrative implementation costs. VRS could potentially charge each contributing nonprofit private college a pro rata portion of the implementation costs.

DHRM Impact Estimates

DHRM indicates there will be minimal implementation cost. However, the addition of categories of employers and employees will increase the ongoing cost of administering LODA and thereby increase the LODA Health Benefit Plans costs. Fiscal implications will depend on the demographics of the employees and the claims experience.

9. **Fiscal Implications:** There are ten nonprofit private colleges and universities in Virginia (Virginia nonprofit private colleges) that have existing campus police departments. LODA participating employers currently cover approximately 17,900 full-time equivalent (FTE) public employees and volunteers ("employees" as defined in [§ 9.1-400](#) of the *Code of Virginia*). If all ten Virginia nonprofit private colleges with campus police departments elect to participate in LODA, approximately 145 employees would be added. No other private employers are authorized to provide LODA benefits to their employees. For-profit private colleges in Virginia would not be eligible to elect to provide LODA benefits under the substitute.

The LODA statutes do not provide for any new entity covered under LODA to elect to be a "non-participating employer" (as defined in [§ 9.1-400](#) of the *Code*), meaning they will participate in the VRS-administered LODA Fund, rather than self-funding their LODA-

equivalent benefits. This means that each Virginia nonprofit private college that elects to participate in LODA benefits will pay a premium per covered employee to the LODA Fund each year. The LODA Fund premium effective July 1, 2023 is \$830.00 per eligible employee. It is anticipated that the annual cost per employee will continue to increase over time as the cost of health insurance continues to rise at a rate higher than general inflation.

LODA Fund premiums cover:

- the LODA death benefit (\$100,000 to survivors of eligible individuals killed in the line of duty or \$25,000 in the event of a death related to a disability directly related to service in the line of duty; surviving family members receive health coverage with some restrictions)
- \$25,000 for disabilities that occur in the line of duty (injuries as well as certain medical conditions found to be directly caused by line of duty activities)
- eligible individuals receive health insurance coverage administered by DHRM (VRS cannot address implications of adding nonprofit private college campus police officers to LODA health insurance plans)
- VRS and DHRM administration costs (VRS makes eligibility determinations, and DHRM administers the LODA health benefits)

The LODA Fund is a pay-as-you-go fund, which means that there is no pre-funding and the premiums are generally set to cover costs anticipated over the next two years of benefit payments. The influx of 145 covered employees is not expected to impact the premium in the short term but increasing the number of individuals eligible for benefits will increase the probability of additional LODA Fund benefit payments in future years. As a result, the LODA Fund premium may increase in the future for all LODA Fund participating employers due to changes in anticipated death benefit payments and disability benefit (including health benefit) payments.

Using the current LODA Fund premium, for the first year the total premium cost for each of the Virginia nonprofit private colleges authorized to establish campus police departments would be estimated at:

Virginia Nonprofit Private College	Campus Police Department Headcount	Estimated LODA Premium Cost for FY 2024 (\$830.00/FTE)
Bridgewater College	7	\$5,810.00
Eastern Virginia Medical School	26	\$21,580.00
Emory & Henry College	4	\$3,320.00
Ferrum College	7	\$5,810.00
Hampden-Sydney College	11	\$9,130.00
Hampton University	12	\$9,960.00
Liberty University	37	\$30,710.00
Regent University	11	\$9,130.00
University of Richmond	22	\$18,260.00
Virginia Union University	8	\$6,640.00

10. Specific Agency or Political Subdivisions Affected: VRS and DHRM. Will also impact Virginia nonprofit private colleges and universities that choose to provide LODA benefits.

11. Technical Amendment Necessary: Yes, if implementation costs are to be covered by the nonprofit private higher education institutions. In lieu of the General Assembly providing a GF appropriation to cover implementation costs, each nonprofit private higher education institution that elects to provide LODA benefits to their eligible employees could be charged a pro rata portion of the implementation costs. Following line 395, insert:

4. That each contributing nonprofit private higher education institution shall pay its pro rata share of the initial implementation costs, as determined by VRS.

12. Other Comments: This legislation would allow the ten nonprofit private colleges and universities in Virginia that have established campus police departments to make a one-time irrevocable election to offer LODA benefits to their eligible campus police officers within 180 days of the effective date of the legislation. No other private employers are authorized to provide LODA benefits to their employees. For profit private colleges in Virginia would not be eligible to elect to provide LODA benefits under the substitute. Eligible private higher education institutions that elect to provide LODA benefits would become a contributing nonprofit private institution of higher education, which is defined as a nonprofit private institution of higher education, as defined in § 23.1-100, that has (i) established a campus police department pursuant to § 23.1-810 and (ii) made an irrevocable election to provide the benefits under this chapter and to fund the cost by participating in the Fund.

Nonprofit private higher education institutions that elect to provide LODA benefits to their eligible employees would be required to provide all of the benefits under chapter 4 of Title 9.1 of the *Code of Virginia*. They would pay annual premiums for each eligible employee to the LODA Fund, which would then cover the cost of benefits. They could be required to pay their pro rata share of the implementation costs, as determined by VRS.

The legislation is prospective and would apply to any campus police officer employed by a nonprofit private institution of higher education whose death or disability occurred on or after the effective date of the substitute and the effective date of such institution's irrevocable election to fund the cost of benefits under the Line of Duty Act and participate in the Line of Duty Death and Health Benefits Trust Fund. Nonprofit private higher education institutions that subsequently establish campus police departments will have 180 days from the establishment of the campus police department to make an irrevocable one-time election to provide LODA benefits to their eligible campus police officers through participation in the LODA Fund.

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