

Department of Planning and Budget 2021 Fiscal Impact Statement

1. **Bill Number:** HB2207

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

2. **Patron:** Jones

3. **Committee:** Appropriations

4. **Title:** Workers' compensation; presumption of compensability for COVID-19.

5. **Summary:** Establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers is an occupational disease compensable under the Virginia Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment.

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

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

8. **Fiscal Implications:** The bill adds firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers to the list of employees who are entitled to a presumption that COVID-19 is an occupational disease under the Virginia Workers' Compensation Act.

Department of Human Resource Management

According to the Department of Human Resource Management (DHRM), the proposed legislation is expected to impact the experience-based workers' compensation premium paid by state agencies whose employees would be covered with the presumption of compensability; however, the fiscal impact for those affected agencies cannot be determined at this time. Although DHRM expects an increase in the workers' compensation premium for the state agencies that have staff impacted by these presumptions, an actuarial study to determine the potential premium increase per agency will have to be conducted. The bill is not expected to have a fiscal impact for the Office of Workers' Compensation (OWC) program.

Attorney General and Department of Law

The Attorney General and Department of Law (OAG) may need additional staff to handle the expected increase in workers' compensation claims. The OAG has estimated that for every 100 claims that are submitted, and ultimately litigated, the agency may need to hire one additional lawyer in the Workers' Compensation Unit, as well as additional support staff. The need for increased staffing, if necessary, would be temporary, and could be accommodated by contract attorneys or outside counsel. If the OAG does hire the necessary lawyers and staff, the agency would need office space and other resources for temporary staffing, but no additional resources would be needed if outside counsel is used.

Virginia Retirement System

According to the Virginia Retirement System (VRS), although there are expected to be cost impacts to the Line of Duty Act (LODA), VRS disabilities, and workers' compensation premiums for applicable agencies related to COVID-19, at this point it is difficult to provide an accurate estimate of those impacts.

The Society of Actuaries released results from a Group Life COVID-19 Mortality Survey in December 2020 that reported that Group Life claim incidence rates from April 2020 through August 2020 were up 8.5% compared to 2017-2019 reported claims for similar time periods. Based on the survey results, VRS has provided estimated impacts to the LODA program assuming a 10% increase in both death and disability claims in the one-year period following the effective date of this bill.

For purposes of calculating the estimated costs shown below, the following assumptions were made:

- 10% increase in both death and disability claims in the one-year period following the effective date.
- No additional increase in claims incidence due to COVID-19 in subsequent years (the assumption is a one-time impact).
- The additional benefits due to the one-time 10% increase in claims for COVID-19 will increase each year with health care trend.
- No retroactive claims prior to January 1, 2020 will be included.
- No unexpected increase in DHRM premium rates due to COVID-19 (the assumption is the increased number of LODA claims, not the increase in costs of existing claims).
- VRS is assuming the presumption applies to all members covered by LODA as defined in the bill.

Limitations of this analysis are as follows:

- COVID-19 first appeared in December 2019, so data is still being collected and is not complete, especially for disability incidence impact. Actual incidence rates could be different from the 10% increase that is estimated.
- The SOA Mortality Survey was not specific to first responders or other job titles covered by LODA.

- It is hopeful that the vaccine will cause COVID-19 incidence to occur over a limited one-year time frame. If that turns out to not be the case, costs are expected to increase.

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	\$4.33	\$4.63	\$4.96	\$5.26	\$5.61	\$5.93
Average Impact	\$8.65	\$9.26	\$9.91	\$10.51	\$11.21	\$11.86
75% Impact	\$12.98	\$13.89	\$14.87	\$15.77	\$16.82	\$17.79
100% Impact	\$17.30	\$18.52	\$19.82	\$21.02	\$22.42	\$23.72

Additional Contribution Requirement

Range	Fiscal Year Ending June 30					
	2021	2022	2023	2024	2025	2026
25% Impact	\$ 86,500	\$ 92,500	\$ 99,000	\$ 105,000	\$ 112,000	\$ 118,500
Average Impact	\$ 172,900	\$ 185,100	\$ 198,100	\$ 210,100	\$ 224,100	\$ 237,100
75% Impact	\$ 259,400	\$ 277,600	\$ 297,100	\$ 315,100	\$ 336,100	\$ 355,600
100% Impact	\$ 345,800	\$ 370,200	\$ 396,200	\$ 420,200	\$ 448,200	\$ 474,100

In addition to the increased incidence of death due to COVID-19, the results were developed using the valuation assumptions and methods used and disclosed in the “Report on the Actuarial Valuation of the Line of Duty Act Fund, Prepared as of June 30, 2020”.

These cost increase assumptions would apply pro rata to individual localities that are funding LODA costs independently from the Fund.

The ultimate impact of the presumptions will be dependent on the number of initial deaths and any associated long-term impacts that COVID-19 may have on individuals. Since COVID-19 was only discovered a few months ago, its long-term effects are unknown, and while researchers are trying to look at parallels with two other coronaviruses, SARS and MERSCoV, it will take time to have a full picture of the longer-term consequences of infection with COVID-19.

Virginia Workers' Compensation Commission

According to the Virginia Workers' Compensation Commission, the legislation will likely increase the number of workers' compensation claims in Virginia. Although the number of workers' compensation claims is expected to increase, the Commission projects that the legislation will not have a significant financial 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, Virginia Workers' Compensation Commission, Virginia Retirement System, Attorney General and Department of Law, agencies that employ firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers, 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 a companion to SB 1342 (Vogel).