

Department of Planning and Budget 2023 Fiscal Impact Statement

1. **Bill Number:** SB1088

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. **Patron:** Ebbin

3. **Committee:** Commerce and Labor

4. **Title:** Workers' compensation; post-traumatic stress disorder incurred by dispatchers.

5. **Summary:** Allows dispatchers, as defined in the bill, to claim workers' compensation benefits relating to post-traumatic stress disorder under the Virginia Workers' Compensation Act. Currently, only law-enforcement officers and firefighters may claim such benefits.

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 will likely have an impact to its Office of Workers' Compensation (OWC), the Attorney General and Department of Law (OAG) unit assigned to litigate the state's workers' compensation claims, and state agencies in the workers' compensation program that employ dispatchers. Those agencies will be impacted as they would need to have the appropriate funding to pay their experience-based premium for workers' compensation coverage; however, the premium increase for the affected agencies cannot be determined at this time. In reviewing its OWC claims files, DHRM found that approximately 27% of claims filed by dispatchers have been accepted with benefits paid, with an average cost/claim of \$14,826.23.

The proposed legislation would likely lead to more workers' compensation claims being accepted. If every claim filed had been accepted, DHRM estimates its OWC would need to increase the workers' compensation claims reserves by approximately \$504,000 to cover this exposure.

The OAG unit assigned to DHRM's OWC estimates it would need one additional lawyer for each 100 new claims litigated, and one additional support staff member for every 150 new claims. 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.

According to the Virginia Retirement System (VRS), the proposed legislation may impact the Line of Duty Act (LODA) program, the VRS disability retirement program, or the VRS managed disability programs. This is due to these programs having a work-related component of benefits dependent on whether an injury or death occurs in the course of employment as determined by the Virginia Workers' Compensation Commission. There are numerous references to Workers' Compensation Act provisions within the statutory framework for VRS-administered programs. Therefore, any changes to the Workers' Compensation Act provisions can impact and add costs to the VRS-administered programs.

Line of Duty Act

The proposed legislation is expected to add eligibility for LODA benefits either by expanding the presumptions or by increasing the pool of people who would be eligible under an existing presumption. While the impact will not be immediate, it will likely accelerate the increase in LODA premiums as more conditions and members are covered by presumptions that increase the likelihood of future claims.

Not all occupational diseases and conditions used in the Workers' Compensation context are applicable in the LODA context. Currently, the only presumption statutes from the Workers' Compensation Act that impact LODA are §§ 65.2-402 and 65.2-402.1. Other presumptions, such as §§ 27-40.1, 27-40.2, and 51.1-813, also apply to LODA but are not codified in the Workers' Compensation Act.

To the extent that a bill impacts a presumption statute that already applies to LODA, then there will be an impact to the LODA program. Otherwise, changes to presumption statutes will not impact LODA unless a new statute is cross-referenced in the definition of a "deceased person" in § 9.1-400.

VRS Disability Retirement

The retirement allowance calculation for a VRS disability retirement depends on whether the disabling condition is work-related. If the disabling condition is not compensable under the Workers' Compensation Act, then it is not a work-related disability. If the disabling condition is compensable under the Workers' Compensation Act, then it is a work-related disability. Members retiring due to a work-related disability receive a higher VRS disability retirement benefit. Any bill that impacts the likelihood of compensability under the Workers' Compensation Act impacts the likelihood that a VRS member's disabling disease or condition will be considered work-related.

VRS Managed Disability

VRS managed disability programs include the Virginia Sickness and Disability Program (VSDP) for state employees and the Virginia Local Disability Program (VLDP) or a comparable plan for local employees who are in the Hybrid Retirement Plan. In both VSDP and VLDP, the calculation of benefits depends on whether the disabling condition is work-related. If the disabling condition is not compensable under the Workers' Compensation Act, then it is not a work-related disability. If the disabling condition is compensable under the Workers' Compensation Act, then it is a work-related disability. Members receiving VSDP, VLDP, or comparable benefits due to a work-related disability receive a higher benefit. Any

bill that impacts the likelihood of compensability under the Workers' Compensation Act impacts the calculation of VSDP and VLDP benefits.

According to the Virginia Workers' Compensation Commission, the proposed legislation is expected to have minimal or no fiscal impact for the agency.

9. Specific Agency or Political Subdivisions Affected: Department of Human Resource Management, Attorney General and Department of Law, Virginia Retirement System, Virginia Workers' Compensation Commission, state agencies that employ dispatchers, state agencies with LODA-eligible employees, and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is a companion to HB 1631.