

Department of Planning and Budget
2026 General Assembly Session
State Fiscal Impact Statement

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ORIGINAL

Bill Number: HB865-E

Patron: Cousins

Bill Title: Workers' compensation; presumption of compensability for certain cancers.

Bill Summary: Expands the workers' compensation presumption of compensability for certain cancers causing the death or disability of certain employees who have completed five years of service in their position to include lung cancer and non-Hodgkin's lymphoma for any individual diagnosed with such a condition on or after July 1, 2027. The bill has a delayed effective date of July 1, 2027.

Budget Amendment Necessary: Potentially **Items Impacted:** 469

Explanation: Increases in workers' compensation and Line of Duty Act premiums billed to state agencies would be budgeted in Central Appropriations.

Fiscal Summary: The Virginia Workers' Compensation Commission, the Department of Human Resource Management, and the Office of the Attorney General do not expect any direct fiscal impacts from this legislation. The legislation may lead to an increase in workers' compensation claims among state employees, which may lead to higher premiums billed to state agencies. Certain state agencies would need additional general fund appropriation to support those higher premiums, which would be appropriated under Central Appropriations. The bill may also impact certain Virginia Retirement System disability programs and the Line of Duty Act program.

Fiscal Analysis: Under current law, individuals in certain occupations who experience total or partial disability or death as a result of certain cancers are eligible for workers' compensation claims because the law presumes that such diseases are related to their occupation. This legislation expands the diseases covered by this presumption to include lung cancer and non-Hodgkin's lymphoma. The Department of Human Resource Management (DHRM) states that the bill would not have a fiscal impact on DHRM's Office of Workers' Compensation, which manages the workers' compensation program for state employees, or on the Office of the Attorney General unit assigned to that office.

The expansion of the presumption, and the additional employees covered by the presumption may lead to an increase in premium for those agencies that have employees who would now be eligible for workers' compensation benefits, as they would need to have the appropriate funding to pay their experience-based premiums. State agencies potentially impacted include the Departments of Emergency Management, State Police, and Motor Vehicles, as well as agencies that have salaried or volunteer firefighters. The impact of such premium increases is currently unknown and would depend on the claims filed by employees.

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

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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

Under the Line of Duty Act (LODA), § 9.1-400 et seq., eligible individuals who experience death or disability as a result of the cancer presumptions in § 65.2-402 and also meet the definition for a disabled person or deceased person under LODA are eligible to receive LODA benefits. Including additional diseases could lead to additional LODA claims, which may require increased LODA premiums billed to state agencies. The Virginia Retirement System (VRS) Board of Trustees certified a rate of \$1,385 per eligible employee for FY2027.

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

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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 no fiscal impact for the agency.

Other: None.