

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB274

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

2. **Patron:** Helmer

3. **Committee:** Labor and Commerce

4. **Title:** Workers' compensation; presumption of compensability of infertility for firefighters.

5. **Summary:** Provides that firefighters who suffer from infertility are presumed to have developed infertility during the course and scope of employment as a firefighter in certain instances. The bill provides that such infertility is compensable under the Virginia Workers' Compensation Act if diagnosed by a medical professional and that such compensation may include medical treatment, temporary total incapacity benefits, and temporary partial incapacity benefits for a maximum period of 52 weeks from the date of diagnosis. The bill also requires each employer of firefighters to refer a firefighter seeking infertility health care services to a licensed medical professional after January 1, 2025.

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 firefighters. 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.

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 person for every 120 to 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 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 during 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.

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 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 firefighters, state agencies with LODA-eligible employees, and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: None.