

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB181

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Saslaw

3. Committee: Commerce and Labor

4. Title: Workers' compensation; presumption as to death or disability from COVID-19; vaccine.

5. Summary: Provides that the presumption that COVID-19 causing the death or disability of certain employees is an occupational disease compensable under the Virginia Workers' Compensation Act does not apply to an individual who fails or refuses to receive a vaccine for the prevention of COVID-19 either approved by or with an Emergency Use Authorization issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: According to the Department of Human Resource Management, the proposed legislation is not expected to have a fiscal impact for its Office of Workers' Compensation program as it appears to limit the presumption to state employees who are vaccinated. The proposed legislation is not expected to have a fiscal impact for the workers' compensation unit at the Office of the Attorney General and Department of Law. The Virginia Workers' Compensation Commission also does not expect the proposed legislation will have a fiscal impact for the agency.

According to the Virginia Retirement System (VRS), there were fewer disability retirements in FY 2020 (339) than in FY 2019 (471). Disability retirements also decreased in FY 2021 (232) from the previous year. 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.

The proposed legislation amends § 65.2-402.1, which impacts the Line of Duty Act (LODA). The number of LODA claims appear to not have been impacted by COVID-19. LODA claims from FY 2020 (78) and FY 2021 (82) are lower than the claims in FY 2019 (107).

The number of COVID-19 cases has increased short-term disability (STD) and long-term disability (LTD) claims for state employees in the Virginia Sickness and Disability Program (VSDP) and the Virginia Local Disability Program (VLDP) for local employees.

COVID-19 Claims by Program	2020	2021
Virginia Local Disability Program (LTD)	0	7
Virginia Local Disability Program (STD)	7	50
Virginia Sickness and Disability Program (LTD)	19	44
Virginia Sickness and Disability Program (STD)	265	1,254

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.

9. Specific Agency or Political Subdivisions Affected: All state agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: No.