

LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 1470

STATE OF NEW JERSEY

221st LEGISLATURE

DATED: FEBRUARY 26, 2024

SUMMARY

- Synopsis:** Provides workers’ compensation benefits for certain public safety workers who developed illness or injury as result of responding to September 11, 2001 terrorist attacks.
- Type of Impact:** Annual increase in State and local costs.
- Agencies Affected:** State government, local public safety departments.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3 and Thereafter
State and Local Cost Increases	\$0.6 million to \$2.3 million	\$1.8 million to \$6.6 million	\$3.0 million to \$10.8 million

- The Office of Legislative Services (OLS) estimates that this bill will result in a combined annual State and local cost increase ranging from \$0.6 million to \$2.3 million in the first year the bill is implemented, \$1.8 million to \$6.6 million in the second year, and \$3.0 million to \$10.8 million in the third and subsequent years.
- The OLS notes that because there are no data available from the Department of Labor and Workforce Development on past workers’ compensation claims related to public safety workers involved in the 9/11 response, the split between State and local costs related to this bill is indeterminate. However, the OLS finds the cost will be primarily borne by local governments.
- Workers’ compensation benefits claims are applicable to the employer of record at the time the injury or illness occurred. These claims would be the responsibility of the State or local department which employed the worker at the time the injury or illness occurred, regardless of the timeframe symptoms took to manifest themselves.
- The OLS also notes that the range in its cost estimates relates to various assumptions on the frequency that compensation awards will be reduced to reflect benefits received from other jurisdictions and sources, such as the federal September 11th Victim Compensation Fund.

## **BILL DESCRIPTION**

This bill provides that a public safety worker who participated in the response to the September 11, 2001 attacks and is treated or monitored through the World Trade Center Health Program established by the Centers for Disease Control and Prevention is presumed to be compensable under the State workers' compensation law without respect to when the worker files his claim for compensation, except that the claim is required to be filed within two years after the effective date of the bill or, if later, within two years after the date when the claimant knew or should have known that the claimant sustained a disability in connection with exposure at the World Trade Center. A worker is deemed ineligible for the benefits if the worker is eligible for benefits for the same injury, illness, or death under workers' compensation programs of other states or the federal government.

The bill requires the Division of Archives and Records Management in the Department of State, and each county, municipality, regional or joint public safety entity, or other agency involved in the public safety, to notify all active and retired personnel and next-of-kin, if the personnel are deceased, of the presumption of compensability within three months of the effective date of the bill.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill will result in a combined annual State and local cost increase ranging from \$0.6 million to \$2.3 million in the first year the bill is implemented, \$1.8 million to \$6.6 million in the second year, and \$3.0 million to \$10.8 million in the third and subsequent years. The estimate is based on data contained in the World Trade Center Health Program, a comprehensive registration vehicle for all responders, survivors, and victims of the September 11, 2001 attacks. These data points are used to create estimates for the number of New Jersey participants in each category, including the germane group: New Jersey responders involved in the attacks, aftermath, and subsequent cleanup. Participation in the World Trade Center Health Program is also a requirement for eligibility under the provisions of the bill.

Based on the latest World Trade Center Health Program report published December 31, 2023, there are 129,803 members of the program, which includes 85,899 responders, 42,620 survivors (almost entirely civilian workers at the World Trade Center), and 1,284 Pentagon/Shanksville registrants. This total represents 123,022 living members, with the remainder having either perished in the initial attack or passed away since. Using program data, the OLS is able to extrapolate the total New Jersey responders in the program at 1,200, or roughly 1.5 percent of the total responder population. These numbers form the basis for the workers' compensation estimates.

In addition, the federal September 11th Victim Compensation Fund tracks new claims made by members of the eligible population. Based on data showing the last 24 months of claims, there are on average 600 new claims each month, with responders accounting for an estimated 408 per month. Using the ratios of New Jersey responders versus the total responder population, the OLS estimates that there will be six new workers' compensation claims each month applicable to New Jersey employed public safety workers in the World Trade Center population.

Workers’ compensation claims are currently subject to a weekly limit of \$1,131 per week, which is calculated based on 70 percent of the statewide average weekly wage. The OLS assumes that the average public safety worker in New Jersey will have a base salary sufficient to qualify for the maximum weekly benefit. Assuming six new claims per month, the OLS calculated the impact of the increasing claim count over three years at the maximum weekly benefit. This would result in a maximum cumulative State and local expenditure increase of \$19.7 million over that three-year timeframe, assuming no full or partial offsets for benefits from other sources.

In order to estimate any potential credits for benefits from other sources, the OLS used the success rate for responders seeking relief under the September 11th Victim Compensation Fund. To date, 72 percent of responder claims have been approved for lump-sum payment under the Victim Compensation Fund program. The average fund payout since inception is \$182,000, and the average payout in 2023 was \$178,000. These average award amounts are used as the proxy for benefits from other sources and equate to 155-160 weeks of the maximum workers’ compensation payouts, meaning that any successful Victim Compensation Fund claims would represent a complete offset to any workers’ compensation payments over the three-year analysis window. Using the 72 percent success rate of Victim Compensation Fund claims reduces the cumulative three-year total for workers’ compensation payments to \$5.5 million. Because the timing of the payments likely does not coincide precisely with the onset of any successful workers’ compensation claim, the OLS analysis calculates this reduced number as the theoretical lower bound on the claims paid in the three-year analysis period.

The calculation factors used for the estimated maximum payments and the estimated payments with the 72 percent offset are summarized in the table below:

Year	Cases at Year End	Claim Weeks for Maximum Estimate	Estimated Maximum Payments (in \$ Millions)	Estimated Payments with 72% Offset (in \$ Millions)
1	72	2,052	\$2.3	\$0.6
2	144	5,796	\$6.6	\$1.8
3	216	9,540	\$10.8	\$3.0
Total	216	17,388	\$19.7	\$5.5

Beyond the three-year horizon, the OLS estimates that the annual payments would be similar to those seen in the third year of the program. This ranges from \$3.0 million (with the 72 percent offset assumption) up to \$10.8 million if there are no fully or partially offsetting Victim Compensation Fund or other benefit claims.

The OLS notes that because there are no data available from the Department of Labor and Workforce Development on past workers’ compensation claims related to public safety workers involved in the 9/11 response, the split between State and local costs related to this bill is indeterminate. However, the OLS finds the cost will be primarily borne by local governments.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).