

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3999
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: AUGUST 5, 2020

SUMMARY

Synopsis: Concerns employment benefits and coronavirus disease 2019 infections contracted by essential employees.

Type of Impact: Indeterminate Expenditure Increase to the State and local entities.

Agencies Affected: Department of Labor and Workforce Development. Department of the Treasury, Division of Pensions and Benefits.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
Local Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the enactment of this bill may result in an indeterminate increase in expenditures to the State tied to a potential increase in claims for workers’ compensation benefits from essential workers who are incapacitated or unable to perform their duties as a result of contracting coronavirus disease 2019 through the course of their employment.
- While it is worth noting that retirement costs for public employers may increase as a result of the bill lowering the burden for essential workers to demonstrate that they are eligible for Ordinary Disability and Accidental Disability Retirement for the Public Employees’ Retirement System (PERS), and any other applicable benefits, the OLS does not have sufficient information on which to estimate the net fiscal impact of this bill for any individual public employer or for all public employers combined.
- The bill will also most likely result in annual increased costs to State and local entities due to the shift of the burden of proof from the worker to the employer in certain cases, which may result in increased claims for workers’ compensation benefits.

BILL DESCRIPTION

This bill creates a rebuttable presumption that coronavirus disease 2019 contracted by health care workers, public safety workers, and other essential employees is work-related and fully compensable for the purpose of workers' compensation benefits and other employment benefits provided for work-related injuries and illnesses.

The bill defines "essential employee" as an employee in the public or private sector who, during a state of emergency:

1. Is a public safety worker or first responder, including any fire, police or other emergency responders;

2. Is involved in providing medical and other healthcare services, emergency transportation, social services, and other care services, including services provided in health care facilities, residential facilities, or homes;

3. Performs functions which involve physical proximity to members of the public and are essential to the public's health, safety, and welfare, including transportation services, hotel and other residential services, financial services, and the production, preparation, storage, sale, and distribution of essential goods such as food, beverages, medicine, fuel, and supplies for conducting essential business and work at home; or

4. Is any other employee deemed an essential employee by the public authority declaring the state of emergency.

The bill provides that any workers' compensation claims paid under the bill will be excluded from an employer's experience modifier pursuant to the New Jersey Workers' Compensation and Employers Liability and Insurance Manual administered by the New Jersey Compensation Rating and Inspection Bureau.

The bill is retroactive to March 9, 2020, the date of Governor Murphy's declaration of state of emergency with respect to the coronavirus disease 2019 pandemic.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the enactment of this bill may result in an indeterminate increase in expenditures due to a potential increase in workers' compensation benefit claims from certain workers who are incapacitated or unable to perform their duties as a result of contracting coronavirus disease 2019 through the course of their employment.

The OLS does not have sufficient information on which to base a determination of the fiscal impact of this bill for any individual public employer or for all public employers' combined contribution to PERS. The OLS believes, however, that the overall impact will likely be felt primarily by local governments and not the State because most essential workers are employed at the local level.

The bill provides essential workers, as defined under the bill, who become incapacitated or unable to perform their work duties as a result of contracting coronavirus disease 2019, with a rebuttable presumption that the incapacitation they experience is related to work place activities and is compensable through workers' compensation benefits. This is a shift in the current system for certain

workers in which the worker has the burden of proving that the injury, disability or death is related to workplace activities. It is possible that this shift will result in the filing of additional claims for workers' compensation benefits. The OLS notes that individuals may be more likely to apply for workers' compensation benefits if there is an understanding that they do not have to bear the burden of proving the connection between their workplace activities and their contraction of the disease. However, it should be noted that the additional claims, and shifting the burden of proof, may have a fiscal impact, which the OLS cannot quantify with any certainty.

The OLS does not have access to independent actuarial information to analyze and determine the impact of the possibility of increased claims on workers' compensation total cost of claims. However, since a majority of public entities are self-insured for workers' compensation, any increases to the costs of workers' compensation will be funded directly by these entities.

Section: Commerce, Labor and Industry
Analyst: Juan C. Rodriguez
Senior Fiscal Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

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.).