

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 476
Finance

(The President, *et al.*) (By Request - Administration)

Economic Matters

**Workers' Compensation - Occupational Disease Presumptions - First Responders
(Caring for Public Employees in the Safety Professions - CAPES Act)**

This Administration bill establishes additional occupational disease presumptions for specified public safety employees (generally firefighters) who contract thyroid, colon, or ovarian cancer that is caused by contact with a toxic substance encountered in the line of duty.

Fiscal Summary

State Effect: State expenditures (all funds) may increase, likely minimally, beginning in FY 2025 due to the bill's expansion of occupational disease presumptions. Revenues are not affected.

Chesapeake Employers' Insurance Company (Chesapeake) Effect: Chesapeake expenditures likely increase beginning in FY 2025, potentially significantly, to the extent that the bill results in additional workers' compensation benefits payments on behalf of the State and local governments. Revenues increase to the extent that premiums are raised due to claims experience under the expanded occupational disease presumptions.

Local Effect: Local government expenditures likely increase, potentially significantly, beginning in FY 2025 due to the bill's expansion of occupational disease presumptions. Revenues are not affected.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill’s occupational disease presumptions apply only to (1) volunteer and career firefighters; (2) firefighting instructors; (3) rescue squad members; (4) advanced life support unit members; and (5) fire marshals employed by an airport authority, a county, a fire control district, a municipality, or the State. Further, the presumptions only apply when the covered employee or volunteer meets other eligibility criteria established under current law for the existing cancer or leukemia disability presumptions.

Current Law: Workers’ compensation law establishes a presumption of compensable occupational disease for certain public safety employees who are exposed to unusual hazards in the course of their employment. It is assumed that these injuries or diseases are due to the employees’ work and, therefore, require no additional evidence in the filing of a claim for workers’ compensation. As shown below, generally, presumptions are based on particular occupations and their associated health risks.

Type of Personnel/Occupation	Type of Disease
Volunteer and career firefighters, firefighting instructors, rescue squad members, and advanced life support unit members; fire marshals employed by an airport authority, a county, a fire control district, a municipality, or the State	Heart disease, hypertension, or lung disease that results in partial or total disability or death Leukemia or prostate, rectal, throat, multiple myeloma, non-Hodgkin’s lymphoma, brain, bladder, kidney or renal cell, testicular, or breast cancer under specified conditions
Police officers; deputy sheriffs, correctional officers, and detention officers of specified counties	Heart disease or hypertension that results in partial or total disability or death
Department of Natural Resources paid law enforcement employees, park police officers of the Maryland-National Capital Park and Planning Commission, forest rangers, park rangers, and wildlife rangers	Lyme disease under specified conditions

One of the above cancer or leukemia disability presumptions applies if:

- a covered employee has a cancer or leukemia disability that is caused by contact with a toxic substance that the individual has encountered in the line of duty;

- a covered employee has completed at least 10 years of cumulative service in the State as a firefighter, firefighting instructor, rescue squad member, or advanced life support unit member (or a combination of those jobs);
- the cancer or leukemia results in partial or total disability or death; and
- for specified volunteer positions, a covered employee has met a suitable standard of physical examination before becoming a volunteer.

Under these circumstances, a covered employee who receives a presumption is entitled to workers' compensation benefits in addition to any benefits that the individual is entitled to receive under the retirement system in which the individual participated at the time of the claim. However, the weekly total of workers' compensation and retirement benefits may not exceed the weekly salary that was paid to the individual; any necessary adjustment is made against the workers' compensation benefits.

Although statute is silent on the issue, occupational disease presumptions have long been considered rebuttable presumptions. Two court decisions address the use of "is presumed" in reference to occupational diseases in current law, specifying that the term "without contrary qualification, should be read to be a presumption, although rebuttable, of fact." (See *Board of County Commissioners v. Colgan*, 274 Md. 193, 334 A.2d 89 (1975); and *Montgomery County Fire Board v. Fisher*, 53 Md. App. 435, 454 A.2d 394, aff'd, 298 Md. 245, 468 A.2d 625 (1983).) However, the Court of Special Appeals (now the Appellate Court of Maryland) has stated that, "after the last injurious exposure to a hazard and the conclusion of employment the nexus between an occupational disease and an occupation becomes increasingly remote." (See *Montgomery County, Maryland v. Pirrone*, 109 Md. App. 201, 674 A.2d 98 (1996).)

Background: According to the National Cancer Institute (NCI), thyroid cancer is any cancer that starts in the thyroid gland. NCI estimates that, in the United States, [thyroid cancer](#) accounted for 2.2% (43,720) of all new cancer cases in 2023 and 0.3% (2,120) of all cancer deaths in that same year.

According to NCI, colon cancer is any cancer that starts in the colon. NCI estimates that, in the United States, [colorectal cancer](#) (which includes not only colon cancer, but also cancer that begins in the rectum) accounted for 7.8% (153,020) of all new cancer cases in 2023 and 8.6% (52,550) of all cancer deaths in that same year.

According to NCI, ovarian cancer is any cancer that starts in the ovaries and fallopian tubes. NCI estimates that, in the United States, [ovarian cancer](#) accounted for 1.0% (19,710) of all new cancer cases in 2023 and 2.2% (13,270) of all cancer deaths in that same year.

The [National Institute for Occupational Safety and Health](#) (NIOSH) advises that cancer is a leading cause of death among firefighters, and its research suggests that firefighters are

at a higher risk of certain types of cancers when compared to the general population due to exposure to chemicals in gases, vapors, and particulate matter. Notably, [a study conducted by NIOSH in 2013](#) found that firefighters are more likely to develop cancers of the respiratory, digestive, and urinary systems.

State/Chesapeake/Local Expenditures: Any increase in expenditures depends on how many affected public safety employees qualify for the occupational disease presumptions in any given year and whether any of those employees would have received workers' compensation for thyroid, colon, or ovarian cancer absent the bill. DLS advises that a covered employee may still receive workers' compensation for those cancers under current law; the presumptions established under the bill ensure no additional evidence is required to qualify for benefits.

State Expenditures

State expenditures (all funds) may increase, likely minimally, beginning in fiscal 2025 due to the bill's expansion of the State's occupational disease presumptions. Some State employees, particularly those within the Office of the Fire Marshal and the Baltimore/Washington International Thurgood Marshall Airport Fire and Rescue Department, may be able to qualify for the occupational disease presumptions established by the bill. Even so, DLS advises that the number of State employees likely eligible for presumptions under the bill is relatively small; thus, any increase in State expenditures due to additional claims benefits is likely to be minimal.

Chesapeake Expenditures

As the administrator of workers' compensation claims for the State and the workers' compensation insurer for many local governments, Chesapeake anticipates more claims to be paid out due to the additional occupational disease presumptions beginning as early as fiscal 2025.

For illustrative purposes only, Chesapeake advises that, over the 10-year period from 2014 through 2023, Chesapeake has incurred approximately \$37.6 million on about 749 occupational disease presumption cases for the State and for local governments it insures. About 64% of those cases were for local government public safety employees, and local government claims accounted for approximately 62% of the claims payments. This amounts to an average of \$48,351 per case and \$2.32 million per year.

Local Expenditures

Local governments are disproportionately affected by the bill because counties and municipalities, many of which are self-insured, employ the majority of the public safety

personnel who may be affected by the bill. Accordingly, local expenditures likely increase beginning as early as fiscal 2025. DLS advises that, although the amount of any such increase in expenditures cannot be reliably estimated at this time, it could (given the high per claim cost for these types of cases) be significant.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 584 (The Speaker, *et al.*) (By Request - Administration) - Economic Matters.

Information Source(s): Chesapeake Employers' Insurance Company; Subsequent Injury Fund; Uninsured Employers' Fund; Maryland Institute for Emergency Medical Services Systems; Maryland Department of Transportation; Department of State Police; Harford County; Maryland Municipal League; City of Annapolis; National Cancer Institute; National Institute for Occupational Safety and Health; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

**TITLE OF BILL: Workers' Compensation - Occupational Disease Presumptions -
First Responders (Caring for Public Employees in the Safety
Professions - CAPES Act)**

BILL NUMBER: SB0476

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS