



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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<b>Bill Number:</b>	H. 3939	Amended by House Judiciary on April 21, 2021
<b>Author:</b>	Pope	
<b>Subject:</b>	Workers' Comp	
<b>Requestor:</b>	House Judiciary	
<b>RFA Analyst(s):</b>	Miller	
<b>Impact Date:</b>	April 23, 2021	

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### **Fiscal Impact Summary**

This amended bill will have no expenditure impact on the Workers' Compensation Commission because it does not materially alter the responsibilities of the agency. The Other Funds expenditure impact for the State Accident Fund (SAF) is undetermined beginning in FY 2021-22, dependent upon the number of newly compensable claims granted due to this bill. Additionally, this bill will result in an undetermined increase in General Fund, Other Funds, and/or Federal Funds expenditures for agencies with first responder employees due to the potential increase in workers' compensation insurance premiums beginning in FY 2021-22 to offset the increase in expenditures for SAF. However, SAF estimates that this bill may result in no more than a two to three percent premium increase for most policyholders due to this bill, but anticipates that this bill will have a more significant impact on smaller agencies and local governments.

Additionally, this amended bill will result in an increase in local expenditures due to the potential increase in workers' compensation costs for first responders. Both the South Carolina Association of Counties and the Municipal Association of South Carolina offer workers' compensation to local governing entities and estimate this bill will result in an increase in workers' compensation premiums of ten to twenty percent.

### **Explanation of Fiscal Impact**

#### **Amended by House Judiciary on April 21, 2021**

#### **State Expenditure**

This amended bill exempts first responders from having to establish by a preponderance of the evidence that the conditions leading to stress, mental injury, or mental illness stemmed from extraordinary or unusual relative to the normal conditions of employment for purposes of collecting workers' compensation. The stress, mental injury, or mental illness must be medically diagnosed, as described in the most recent edition of *Diagnosics and Statistical Manual of Mental Disorders* published by the American Psychiatric Association, as one of the following:

- Anxiety disorder,
- Conduct disorder,
- Depression,

- Obsessive-compulsive disorder,
- Sleep-wake disorder, or
- Post-traumatic disorder

Currently, if a first responder's stress, mental injury, or mental illness arise from normal working conditions, the first responder is not considered injured for purposes of collecting workers' compensations. This amended bill will allow a first responder to qualify for injury-related workers' compensation if the stress, mental injury, or mental illness arises from normal working conditions. This bill includes firefighters, volunteer firefighters, law enforcement officers, and volunteer law enforcement officers. This bill takes effect upon approval of the Governor.

**Workers' Compensation Commission.** This bill does not materially alter the responsibilities of the agency. Therefore, this bill will have no expenditure impact on the Workers' Compensation Commission.

**State Accident Fund.** This bill will result in an increase in the number of successful workers' compensation claims triggering an increase in the cost of workers' compensation insurance coverage. The amount of the increased cost will depend upon the number of newly successful workers' compensation claims filed by first responders whose stress or mental illness stem from the normal conditions of their jobs.

SAF offers workers' compensation insurance for state agencies. SAF anticipates this bill will result in an increase in the number of successful workers' compensation claims filed. This will result in an increase in Other Funds expenditure for the SAF to cover these claims. The following is the number of first responders, as defined in the amended bill, covered through SAF:

- Firefighters: 1,396
- Volunteer Firefighters: 2,385
- Law Enforcement: 7,677

Any increase in Other Funds expenditures for SAF will be offset by an increase in workers' compensation premiums. Those agencies that employ first responders will have an increase in insurance premiums due to this increase in coverage. As the increase in the compensable claims is unknown, the increase to premiums is undetermined. However, based on historical data SAF anticipates that this amended bill will result in only a two to three percent increase in premiums to most agencies with first responder employees, due to this bill. SAF stated that larger agencies would likely see a small increase in premiums, whereas smaller agencies and local governments would likely experience a larger impact as their smaller size makes it more difficult to absorb non-typical claim incidences. SAF noted that the cost associated with each claim depends on a number of factors, including the nature of the accident, medical history of the injured party, as well as the injured party's salary and profession. Therefore, this bill will result in an increase in General Fund, Other Funds, and/or Federal Funds expenditures for those agencies employing first responders to cover the increased cost of workers' compensation insurance premiums beginning in FY 2021-22.

## **State Revenue**

As discussed above, this bill will increase the number of compensable workers' compensation claims, resulting in an increase in Other Funds expenditures for SAF to cover these new claims. However, RFA anticipates that any increase in expenditures will be offset by an increase in workers' compensation insurance premiums. Therefore, this bill will result in an increase in Other Funds revenue for SAF beginning in FY 2021-22.

## **Local Expenditure**

This amended bill will result in an increase in the cost of workers' compensation insurance coverage, dependent upon the number of new workers' compensation claims likely to be filed by first responders whose stress or mental illness stem from the normal conditions of their jobs. Those local entities that employ first responders may see an increase in insurance premiums due to this increase in coverage. The South Carolina Association of Counties (SCAC) provides locals with workers' compensation insurance coverage through the South Carolina Counties Workers' Compensation Trust (SCCWCT). SCAC estimates the number of first responders covered in the SCCWCT totals approximately 19,000, including EMS. Additionally, based on an initial review, SCAC anticipates this bill will result in a 15 to 20 percent increase to the Trust and a corresponding increase to premiums for locals that have first responders covered under their policies within SCCWCT. Current premiums vary dependent upon the number of persons covered and other factors.

Additionally, the Municipal Association of South Carolina (MASC) offers locals workers' compensation coverage. MASC covers 130 of the 271 municipalities within the SC Municipal Insurance Trust (SCMIT). MASC estimates approximately 6,807 of the 18,000 covered lives within the SCMIT are first responders. SCMIT's actuaries estimate that this bill will increase the cost to the Trust and a corresponding increase to premiums by 10 to 20 percent. The annual expense for the Trust varies annually, dependent upon the number of successful claims. SCMIT's claims expense for 2019 and 2020 were \$12,200,000 and \$18,900,000, respectively. Using an average of \$15,000,000, SCMIT estimated the potential expenditure increase may be between \$1,500,000 and \$3,000,000 annually, beginning in FY 2021-22. This increase will result in a corresponding total increase in premiums for the 130 municipalities to offset the expenditures to SCMIT. By dividing the estimated increase of \$1,500,000 to \$3,000,000 by the 130 municipalities, the resulting average increase in premiums will be between \$12,000 and \$23,000 annually for each municipality. To estimate the potential impact of this bill, MASC's analyst looked at similar bills from other states as a factor, among other resources. These states included: Florida, Idaho, Minnesota, and South Dakota. MASC emphasized that this potential impact is just an estimate. The actual impact will depend upon the number of newly compensable claims due to this bill, and the actual premium increase for each municipality will depend upon the number of lives covered and other relevant factors.

Further, some local governmental entities purchase workers' compensation insurance from other sources, such as the private market. Revenue and Fiscal Affairs anticipates this bill will result in an increase in premiums for these local governing entities to cover the additional costs of compensable workers' compensation cases. However, the actual expenditure impact will depend

upon the number of newly compensable claims due to this bill, the number of lives covered in each policy, and other relevant factors.

## **Local Revenue**

N/A

## **Introduced on April 16, 2021**

### **State Expenditure**

This exempts law enforcement officers with an impairment causing stress, mental injury, or mental illness arising out of the course of employment without a physical injury from having to establish that the impairment occurred under extraordinary and unusual work conditions in order to be eligible for workers' compensation. This exemption applies if the impairment arises from direct involvement in, or subjection to, the use of deadly force in the line of duty or the repeated exposure, or subjection to, trauma in the officer's scope of work. Currently, law enforcement officers have to establish extraordinary and unusual work conditions in order to be eligible for workers' compensation for stress, mental injury, or mental illness. This exemption will result in an increase in the number of compensable workers' compensation cases relative to law enforcement officers with stress, mental injury, or mental illness.

**Workers Compensation Commission.** This bill does not materially alter the responsibilities of WCC. Therefore, this bill will have no expenditure impact on the agency.

**State Accident Fund.** This bill will result in an increase in the number of compensable workers' compensation claims. Additionally, this bill will result in an increase in the cost of workers' compensation insurance coverage, dependent upon the number of newly successful workers' compensation claims filed by law enforcement officers whose stress or mental illness stem from direct involvement in, or subjection to, the use of deadly force in the line of duty or the repeated exposure, or subjection to, trauma in the officer's scope of work.

The State Accident Fund offers workers' compensation insurance for state agencies. Based on similar bills, Revenue and Fiscal Affairs anticipates this section will result in an increase in the number of successful workers' compensation claims filed. This will result in an increase in Other Funds expenditure for the State Accident Fund to cover these claims. The State Accident Fund covers 7,677 law enforcement officers through various other state agencies.

Any increase in Other Funds expenditures for the State Accident Fund will be offset by an increase in workers' compensation premiums. Those agencies that employ law enforcement officers will have an increase in insurance premiums due to this increase in coverage. However, as the increase in the compensable claims is unknown, the increase to premiums is undetermined. Therefore, this bill will result in an increase in General Fund, Other Funds, and/or Federal Funds expenditures for those agencies employing first responders to cover the increased cost of workers' compensation insurance premiums beginning in FY 2021-22.

## **State Revenue**

This bill will result in an increase in the number of compensable workers' compensation cases relative to law enforcement officers with stress, mental injury, or mental illness. This will result in an increase in Other Funds expenditure for the State Accident Fund to cover these claims. Any increase in Other Funds expenditures for the State Accident Fund will be offset by an increase in workers' compensation premiums. Those agencies that employ law enforcement officers will have an increase in insurance premiums due to this increase in coverage. However, as the increase in the compensable claims is unknown, the increase to premiums is undetermined. Therefore, this bill will result in an undetermined increase in Other Funds for the State Accident Fund due to the increase in workers' compensation insurance premiums beginning in FY 2021-22.

## **Local Expenditure**

This bill may result in an increase in the cost of workers' compensation insurance coverage, depending upon the number of new workers' compensation claims likely to be filed by law enforcement officers whose stress or mental illness stem from direct involvement in, or subjection to, the use of deadly force in the line of duty or the repeated exposure, or subjection to, trauma in the officer's scope of work. Those local entities that employ law enforcement officers may see an increase in insurance premiums due to this increase in coverage. The South Carolina Association of Counties (SCAC) provides locals with workers' compensation insurance coverage through the South Carolina Counties Workers' Compensation Trust (SCCWCT). Additionally, the Municipal Association of South Carolina (MASC) offers locals workers' compensation coverage through the South Carolina Municipal Insurance Trust (SCMIT). However, not all local governing entities purchase workers' compensation insurance from these trusts; they may instead purchase coverage from the private market or other sources.

Based on responses from SCAC and MASC on similar bills, Revenue and Fiscal Affairs (RFA) anticipates this section will result in an increase of compensable workers' compensation claims, which will increase the costs to the SCCWCT and SCMIT. However, as the amount of the compensation is unknown, the increased expenditure to the Trusts is undetermined. RFA expects that any increased expenditure to the Trusts or to other providers of workers' compensation coverage will result in an increase in premiums to the local governing entities covered. Therefore, this bill will result in an undetermined increase in workers' compensation premiums for local governing entities.

RFA also received a response from the Saluda County Sheriff's Office, which reported that the implementation of the bill would result in no expenditure impact.

## **Local Revenue**

N/A

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Frank A. Rainwater, Executive Director