

2. the work-related event or cumulative stress was the proximate cause of the psychological, psychiatric, or stress-related change in the human organism.

Disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer would not be considered a work-related injury.

If a first responder is diagnosed with post-traumatic stress disorder (PTSD) by a qualified mental health professional within three years of last active employment as a first responder, the bill would provide a rebuttable presumption that the PTSD is covered by workers' compensation insurance. The last employer with whom the employee was exposed to the harmful stress would be exclusively liable for benefits.

The fiscal impact of HB 219 on local governments is indeterminable but likely to be moderately negative, depending on number and duration of claims for psychiatric, psychological, or post-traumatic stress disorder injuries.

Information to update this local mandate analysis was sought from the Kentucky League of Cities, the Kentucky Association of Counties and Kentucky Employers Mutual Insurance (KEMI); however, no updated information was provided. Should these entities provide information in the future this local mandate analysis may be updated.

A 2017 survey published by the University of Phoenix consisting of 2,000 first responders, including nurses, paramedics, EMTs, police officers, and firefighters reflected the following:

- 85% of first responders said that they have symptoms related to mental health issues,
- 84% said that they have experienced something traumatic while working,
- 27% have been diagnosed with depression,
- 10% have been diagnosed with post-traumatic stress disorder,
- 69% have experienced a lack of sleep,
- 46% have experienced anxiety.

The expense of workers' compensation insurance to local governments is not in the actual payout resulting from income or medical and related benefits, but in the premiums paid for the workers compensation insurance. Future premiums may be adjusted due to claims history which does not currently exist. If a local government opts to self-insure, they might open themselves up to an undeterminable liability.

Any Kentucky employer, including local government employers, having one or more employees is subject to the Kentucky Workers' Compensation Law (KRS 342.630) and is liable to pay compensation to any employee for any work-related injury, occupational disease, or death caused to the employee (KRS 342.610). A local government must establish a method for paying workers' compensation claims. It may purchase insurance from a company authorized to sell workers' compensation insurance. It may self-insure, in which case it must furnish proof to the state that it has the financial ability to directly pay claims under the law. Upon furnishing adequate proof and acceptable security, a local government employer receives a certificate of self-insurance. Local governments may join

and form a mutual insurance association or reciprocal of inter-insurance exchanges (KRS 342.340 and related laws).

HB 219 would have no impact on volunteer fire departments and volunteer ambulance services. The Kentucky Fire Commission using funds derived from the Firefighters Foundation Program currently provides workers compensation coverage for all of the volunteer fire departments and volunteer ambulance services throughout the state. Likewise, rescue squads meeting the requirements set forth in KRS 39F.010 through 39F.120 and conducting activities permitted by statute receive workers compensation coverage provided by Kentucky Emergency Management.

Kentucky does not have historical data of claims for psychological, psychiatric or post-traumatic stress disorder available, but a number of states have implemented similar legislation.

Colorado HB 17-1229 (effective July, 2018) extended workers' comp coverage to include "mental impairment" due to a psychologically traumatic event or to post-traumatic stress disorder (PTSD) diagnosed after exposure or repeated exposure to one or more of 3 specific types of traumatic events. A representative of Pinnacol Assurance, a political subdivision of the State of Colorado that provides workers' comp insurance for most of the state's public entities that are not self-insured, reported that they have seen no major impact from the changes. Pinnacol lowered its rates for workers' comp insurance in 2019 for the fourth consecutive year, due to cost saving measures unrelated to Colorado HB 17-1229.

Texas House Bill 1983, effective September 1, 2017, provides workers' comp coverage for PTSD specifically to certain first responders. As of December 2018 Texas had experienced no increase in claims or average pay-out to claimants, nor had the premium rates for workers' comp insurance increased.

The State of Vermont amended its workers compensation law effective June 2017 to extend coverage for post-traumatic stress disorder to police officers, rescue or ambulance workers and firefighters who experience extraordinary stress relative to other persons in the same occupation, if diagnosed by a mental health professional within 3 years of the last active date of employment in the identified professions. Vermont's Legislative Joint Fiscal Office estimated that the bill would not cost anything in the 2018 fiscal year and cost no more than \$126,000 in the 2019 fiscal year. However, the Vermont League of Cities and Towns (VLCT) reported that, for the 25 years prior to passage of the 2017 bill the VLCT averaged 3.44 workers compensation claims for mental injury per year. In February 2023, VLCT reports, since the 2017 legislation, it has averaged 13 such claims a year, indicating a significant increase in claims.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II applies to HB 219 as introduced. There is no earlier version for comparison.

Data Source(s): LRC Staff; KENTUCKY MUNICIPAL STATUTORY LAW, Informational Bulletin No. 145 (Revised July 2020); COUNTY GOVERNMENT IN KENTUCKY INFO Bulletin NO. 115 (Revised Sept 2020); Pinnacle Assurance; Kentucky Employers Mutual Insurance; Vermont League of Cities and Towns; Texas Department of Insurance, Division of Workers Compensation

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