

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 2380

with committee amendments

STATE OF NEW JERSEY

DATED: JULY 27, 2020

The Assembly Appropriations Committee reports favorably, and with committee amendments, Senate Committee Substitute for Senate Bill No. 2380.

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 workers' compensation claims paid as a result of the rebuttable presumption provided by the bill shall not be considered in calculating an employer's experience modifier rate or otherwise affect an employer's insurance premium rate for the employer's workers' compensation policy.

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

As amended and reported, this bill is identical to Assembly Bill No. 3999 (ACS) of the 2020-2021 session.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) provide that any workers' compensation claims paid according to section 2 of this act will not be considered in calculating an employer's Experience Modification Factor, pursuant to the New Jersey Workers' Compensation and Employers Liability and Insurance Manual administered by the Compensation Rating and Inspection Bureau established by section 2 of P.L.1995, c.393 (C.34:15-89.1) and section 1 of P.L.2008, c.97 (C. 34:15-90.1);

(2) provide that an employee who is an employee of the State who is offered the option of working at home but has refused that option will not be regarded as an essential employee; and

(3) delete the following language from section 2: "Executive Order 103 of 2020 as extended by subsequent executive orders" and replace it with "an executive order of the Governor and any extension of the order."

FISCAL IMPACT:

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.