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Connecting County Governments since 1934

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CAE

VIA ELECTRONIC MAIL

August 18, 2020

The Honorable Richard L. Saslaw, Chair  
Senate Commerce and Labor Committee  
P.O. Box 396  
Richmond, VA 23218

The Honorable Jeion A. Ward, Chair  
House Labor and Commerce Committee  
P.O. Box 406  
Richmond, Virginia 23218

The Honorable Janet D. Howell, Chair  
Senate Finance and Appropriations Committee  
P.O. Box 396  
Richmond, VA 23218

The Honorable Luke E. Torian, Chair  
House Appropriations Committee  
P.O. Box 406  
Richmond, Virginia 23218

Dear Chair Saslaw, Chair Ward, Chair Howell, and Chair Torian:

I write to you on behalf of the Virginia Association of Counties (VACo) to express our appreciation for your partnership with local governments as we navigate the uncharted waters of the COVID-19 pandemic and the economic damage it has inflicted on state and local governments. We understand that your Committees will be considering a number of legislative items related to Workers' Compensation insurance during the 2020 Special Session of the General Assembly. In light of the challenges facing state and local governments, we would respectfully submit comments related to legislation that would create presumptions that entitle certain categories of employees to workers' compensation benefits for any injury, death, or disability that they suffer as a result of exposure to the COVID-19.

As you are aware, generally workers' compensation does not cover community-spread illnesses like a cold or the flu because they usually cannot be directly tied to the workplace. As such, any expansion of coverage to include COVID-19 would be unexpected. Though the intent of any potential legislation may be well-meaning, we must share our concerns that an expansion of workers' compensation presumptions for COVID-19 in addition to other recent changes in the benefits program could result in substantial fiscal impacts to state and local governments at a time in which we are struggling to provide essential and expanded services in the midst of declining revenues and increased constituent needs.

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According to actuarial data and analysis provided to VACo by VACORP, the resulting fiscal impacts to state and local governments could be very large. Preliminary analysis estimates a multi-million-dollar fiscal impact to state and local governments to expand presumptions to first responders and a significantly larger figure to do so for school board employees. This includes a \$20-\$25 million fiscal impact for expanding presumptions for first responders and a \$60-\$70 million fiscal impact for expanding presumptions to school board employees. This is in part due to the potentially unknown latent effects of COVID-19, which may include lifetime side effects that would need to be treated under a lifetime workers' compensation medical award.

This is especially true for any legislation that would retroactively expand presumptions. Local governments and risk insurance providers have not budgeted for an expansion of liability to cover additional presumptions related to COVID-19. Retroactively extending the provisions of legislation to the start of the pandemic would compound the fiscal strains asked of local governments to comply with these requirements. Not only would local governments feel immediate fiscal impact from these proposed expansions, but the Commonwealth would also be impacted through Line of Duty Act (LODA) costs and through increases of Basic Aid in the next Standards of Quality rebenchmarking.

We strongly urge that passage of any legislation that expands presumptions to include COVID-19 be done only if in concert with additional state funding assistance to local governments to offset additional costs through risk insurance.

Thank you for your consideration of these comments. We look forward to continuing to work with you on this issues and other ways in which to improve the ability of local governments to effectively respond to COVID-19.

Respectfully,

A handwritten signature in black ink, appearing to read "Dean A. Lynch".

Dean A. Lynch, CAE  
Executive Director  
Virginia Association of Counties

cc: Members, Senate Commerce and Labor Committee  
Members, House Labor and Commerce Committee  
Members, Senate Finance and Appropriations Committee  
Members, House Appropriations Committee  
Members, Virginia Association of Counties Board of Directors  
Virginia County Administrators