

Virginia's Line of Duty Act



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October 16, 2015

The Honorable John C. Watkins, Chair
Joint Legislative Audit and Review Commission
General Assembly Building
Richmond, Virginia 23219

Dear Senator Watkins:

In 2014, the General Assembly directed the Joint Legislative Audit and Review Commission to study Virginia's Line of Duty Act and to present options and recommendations for improving the administration and design of the program (House Joint Resolution 103). This report was briefed to the Commission and authorized for printing on December 8, 2014.

On behalf of Commission staff, I would like to thank the staff of the Department of Accounts and the Virginia Retirement System for their assistance during this review. I would also like to acknowledge staff of the Virginia State Police and the Virginia Workers' Compensation Commission who provided information and assistance.

Sincerely,

A handwritten signature in cursive script that reads "Hal E. Greer".

Hal E. Greer
Director

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Abbreviations

Consolidated Omnibus Budget Reconciliation Act of 1985	COBRA
Department of Accounts	DOA
Department of Human Resource Management	DHRM
Department of Justice	DOJ
Fiscal year	FY
Full-time equivalent	FTE
Line of Duty Act	LODA
Other Post Employment Benefit	OPEB
Public Safety Officers' Benefits	PSOB
Social Security Disability Insurance	SSDI
Virginia Association of Counties Risk Pool	VACoRP
Virginia Employment Commission	VEC
Virginia Municipal League Insurance Program	VMLIP
Virginia Retirement System	VRS
Virginia Sickness and Disability Program	VSDP
Virginia State Police	VSP
Virginia Workers' Compensation	VWC

Summary

Virginia's Line of Duty Act

WHAT WE FOUND

Line of Duty Act costs projected to double over next 10 years

The cost of providing death benefits and health insurance benefits under the Line of Duty Act (LODA) has more than doubled since FY 2006, largely due to an increase in the number of disabled beneficiaries and the expansion of the program to provide health insurance. Health care benefits accounted for over 90 percent of total LODA costs in FY 2013. Total program costs are projected to double again over the next decade, from \$16 million in FY 2015 to \$34 million in FY 2024, as additional beneficiaries are approved and health care premiums continue to rise. For state agencies and localities that participate in the LODA Fund, this represents a budgetary commitment of nearly \$115 million over the next 10 years.

Program growth and complexity have created administrative challenges

The Department of Accounts (DOA) has administered the LODA program since its inception, when only a small number of claims for death benefits were approved each year. Due to the expanding scope of the program, DOA's responsibilities now include processing more than 80 new claims annually, assessing whether disabilities are likely to be permanent, and determining the comparability of health insurance coverage. These duties are not aligned with DOA's primary mission. The eligibility determination process is taking longer than allowed by statute, possibly resulting in financial hardship for surviving spouses and disabled beneficiaries. Combined with the increasing complexity of the program, the lack of direction in statute has resulted in potential inconsistencies in how benefits are administered and concerns over the breadth of the eligibility criteria.

WHY WE DID THIS STUDY

The General Assembly directed JLARC to study the costs, structure, and administration of Virginia's Line of Duty Act and to identify recommendations to improve the program's design and implementation. Interest in this topic was spurred by the rising cost of benefits to the state and localities, and concerns over the long-term financial sustainability of the program. Stakeholders have also questioned whether the program is being implemented in accordance with statutory intent.

ABOUT VIRGINIA'S LINE OF DUTY ACT

The Line of Duty Act provides a lump sum death benefit and lifetime health insurance benefits to the families of public safety officers who were killed or permanently disabled in the line of duty. The state and localities paid a combined \$12.2 million in Line of Duty Act benefits to 952 beneficiaries in FY 2013. The Department of Accounts determines eligibility for the program and administers benefits for state agencies and localities that opted to participate in the LODA Fund, which was established to fund benefits. Other localities administer their own benefits. The state and localities are responsible for the cost of benefits for their employees and volunteers.

Policy changes could reduce health insurance costs while maintaining benefits for all eligible public safety officers

Some LODA beneficiaries are not currently enrolled in the most cost-efficient health plans, leaving opportunities to reduce program spending without reducing benefits or changing eligibility criteria. The vast majority (84 percent) of LODA beneficiaries obtain health insurance through a state or local government plan. However, 10 percent must enroll in individual health insurance plans, which are 25 percent more expensive on average, because they can no longer access their state or local plan. Allowing LODA beneficiaries to enroll in state and local health insurance plans would save the program money by eliminating these high cost plans. This option, however, would cause other members of state and local health plans to further subsidize the premiums of disabled public safety officers. Developing a separate health insurance plan for all LODA beneficiaries would eliminate this subsidy while producing cost savings through more active management of the health insurance pool.

LODA rules currently create a disincentive for beneficiaries to use health care coverage available through a new employer or through a spouse's employment, even though the employer subsidy would make this coverage less costly to the LODA program. Only six percent of beneficiaries use employer-subsidized health insurance plans, but three times as many may have access to coverage. Savings could be realized by requiring beneficiaries to use employer-subsidized insurance plans that offer comparable coverage, while continuing LODA benefits that pay the employee's share of premiums.

Implementing the following options would reduce costs without reducing the number of eligible beneficiaries.

JLARC options	Projected 10-year cost savings (\$M)	Percentage of beneficiaries affected	Fewer eligible beneficiaries?	Higher cost to eligible beneficiaries?
Option 1: Allow all LODA beneficiaries to use state and local health insurance plans	\$6.7	4%	No	No
Option 2: Provide health coverage to all LODA beneficiaries through separate plan	\$33.8	100%	No	No
Option 3: Require LODA beneficiaries to use employer coverage if available and comparable	\$13.3 – \$26.6	9% – 18%	No	No

SOURCE: JLARC staff analysis and Cavanaugh MacDonald Consulting actuarial projections.

Narrowing eligibility criteria could reduce costs by providing benefits to fewer beneficiaries

Health insurance benefits meet an important need for families of former public safety officers who might otherwise lack access to affordable health insurance after a death or disability. Unlike similar programs in Virginia and other states, the LODA program allows beneficiaries to receive benefits whether or not they need them. Reducing or eliminating benefits for public safety officers whose incomes exceed a certain threshold and those with access to affordable health insurance would reduce costs while preserving benefits for those with the greatest need. Similarly, discontinuing benefits at age 65 would reduce costs while ensuring beneficiaries have access to affordable health insurance through Medicare.

Virginia is one of only eight states to offer death benefits and health insurance benefits to state and local public safety officers. Virginia also has more broadly defined eligibility criteria than any of the other seven states, in part because statutory language is ambiguous. No distinction is made regarding the severity of a disability, so public safety officers with catastrophic disabilities receive the same benefits as those with permanent but less severe disabilities. Deaths and disabilities resulting from public safety activities, such as making arrests or responding to emergencies, are awarded the same benefits as those occurring at work but unrelated to these inherently dangerous activities. Narrowing the eligibility criteria would reserve benefits for more severe and specific events, reducing the number of eligible beneficiaries and reducing costs.

Implementing the following options would reduce costs and the number of eligible beneficiaries to varying degrees. A combination of policy options to improve the cost-efficiency of health insurance benefits and to narrow the eligibility criteria could be implemented to maximize cost savings.

JLARC options	Projected 10-year cost savings (\$M)	Percentage of beneficiaries affected	Fewer eligible beneficiaries?	Higher cost to eligible beneficiaries?
Option 4: Charge higher-income LODA households for employee portion of health insurance premiums	\$10.9	22%	No	Yes
Option 5: Discontinue health insurance coverage for LODA beneficiaries earning pre-disability salary	\$5.4	2%	Yes	No
Options 6-8: Restrict eligibility to most severely disabled; direct and proximate causes; or narrower "line of duty" definition	Varies	Varies	Yes	No
Option 9: Discontinue health insurance coverage at age 65	\$26.9	6%+	Yes	No

SOURCE: JLARC staff analysis and Cavanaugh MacDonald Consulting actuarial projections.

NOTE: An increasing number of beneficiaries will be affected by Option 9 as beneficiaries age. 6% was as of FY 2013.

Pre-funding benefits would require up-front investment but would reduce long-term costs

No assets have been pre-invested in the LODA Fund to pay for benefits that will be owed after the current year. Pre-funding benefits would help reduce future liabilities and premiums by taking advantage of interest accumulation and more favorable accounting treatment. A sizeable up-front investment would be required to fully pre-fund benefits, but there are a range of options to partially pre-fund benefits with a smaller up-front investment. Implementing policy changes to reduce the cost of future benefits would also make pre-funding benefits more affordable.

WHAT WE RECOMMEND

Legislative action

- Transfer the administration of the LODA program from DOA to the Virginia Retirement System for eligibility determinations and to the Department of Human Resource Management for ongoing benefits.
- Clarify ambiguous language pertaining to eligibility determinations in the Line of Duty Act and require the development of program regulations or formal policies.
- Adopt a new standard for “comparable” health insurance coverage that would be relative to the coverage available to active employees.
- Consider options to reduce costs in light of advantages and disadvantages to employers, LODA beneficiaries, public safety officers, and active state and local employees.

See the complete list of recommendations on page v.

Recommendations and Options

Virginia's Line of Duty Act

RECOMMENDATION 1

The General Assembly may wish to consider amending the Code of Virginia to eliminate mandatory investigations for Line of Duty Act claims and require claimants to submit documents directly to the agency responsible for determining eligibility for the program. The agency could be permitted to request the assistance of the Virginia State Police with obtaining documents when necessary (Chapter 3, page 27).

RECOMMENDATION 2

The Department of Accounts should (i) review Line of Duty Act case documentation for completeness and request missing information immediately upon receipt and (ii) notify claimants of the approval or denial as soon as that information is available, rather than waiting until all of the eligible beneficiaries have been validated (Chapter 3, page 28).

RECOMMENDATION 3

The General Assembly may wish to consider amending the Code of Virginia to provide employers with standing to appeal eligibility determinations for the Line of Duty Act program (Chapter 3, page 29).

RECOMMENDATION 4

The General Assembly may wish to consider amending the Code of Virginia to repeal § 9.1-406, which provides for LODA appeals to be handled “as in civil actions generally” (Chapter 3, page 30).

RECOMMENDATION 5

The General Assembly may wish to consider amending the Code of Virginia to (i) more clearly define the criteria for “line of duty,” “disabled person,” and termination of health insurance upon “coverage by alternative health insurance,” and (ii) require the agency responsible for making eligibility determinations to develop regulations or formal, published policies to implement these statutory changes (Chapter 3, page 31).

RECOMMENDATION 6

The General Assembly may wish to consider amending the Code of Virginia to direct the Department of Human Resource Management to develop standard criteria for assessing comparability across health insurance plans, for use by all entities that administer Line of Duty Act benefits (Chapter 3, page 32).

RECOMMENDATION 7

The General Assembly may wish to consider amending the Code of Virginia to specify that continued health insurance coverage provided through the Line of Duty Act should be the same or comparable to what the public safety officer's former state or local employer is currently making available to active employees (Chapter 3, page 33).

RECOMMENDATION 8

The General Assembly may wish to consider amending the Code of Virginia to require all agencies with employees covered by the Line of Duty Act to obtain a signed designation of beneficiary form every three years for each covered employee and volunteer (Chapter 3, page 34).

RECOMMENDATION 9

The General Assembly may wish to consider amending the Code of Virginia to transfer responsibility for making Line of Duty Act eligibility decisions from the State Comptroller to the Virginia Retirement System (Chapter 3, page 37).

RECOMMENDATION 10

The General Assembly may wish to consider amending the Code of Virginia to transfer responsibility for administering Line of Duty Act health insurance benefits from the Department of Accounts to the Department of Human Resource Management (Chapter 3, page 37).

OPTION 1

The General Assembly could consider amending the Code of Virginia to require the state and localities to include (i) being found eligible for benefits under the Line of Duty Act and (ii) losing alternative health insurance coverage after being found eligible for Line of Duty Act benefits as qualifying events for purposes of enrolling in state and local group health insurance plans (Chapter 4, page 45).

OPTION 2

The General Assembly could consider amending the Code of Virginia to direct the Department of Human Resource Management to establish a separate Line of Duty Act health insurance plan and require all Line of Duty Act beneficiaries to enroll in that plan (Chapter 4, page 48).

OPTION 3

The General Assembly could consider amending the Code of Virginia to require Line of Duty Act beneficiaries to use employer-subsidized health insurance plans if available and comparable to the health insurance coverage currently offered by their former employer (Chapter 4, page 49).

OPTION 4

The General Assembly could consider amending the Code of Virginia to require Line of Duty Act beneficiaries to pay the active employee share of health insurance premiums or 20 percent, whichever is lower, if their household income exceeds 250 percent of the federal poverty level (Chapter 5, page 58).

OPTION 5

The General Assembly could consider amending the Code of Virginia to discontinue Line of Duty Act benefits for disabled public safety officers who are earning at least as much as their pre-disability salary and have access to comparable, affordable health insurance (Chapter 5, page 61).

OPTION 6

The General Assembly could consider amending the Code of Virginia to redefine “disabled person” more narrowly in the Line of Duty Act to reduce the circumstances under which public safety officers are eligible for benefits (Chapter 5, page 64).

OPTION 7

The General Assembly could consider amending the Code of Virginia to eliminate from the eligibility criteria of the Line of Duty Act the presumptive causes listed in the definitions of “deceased person” and “disabled person” (Chapter 5, page 66).

OPTION 8

The General Assembly could consider amending the Code of Virginia to redefine “line of duty” to include only deaths and disabilities occurring as a direct and proximate result of public safety responsibilities (Chapter 5, page 69).

OPTION 9

The General Assembly could consider amending the Code of Virginia to discontinue Line of Duty Act health insurance benefits when beneficiaries become eligible for Medicare at age 65 (Chapter 5, page 71).

OPTION 10

The General Assembly could consider amending the Code of Virginia to require the Department of Fire Programs and the Department of Criminal Justice Services to develop and disseminate best practices in line of duty death and disability prevention and health and wellness programs (Chapter 5, page 72).

OPTION 11

The General Assembly could consider establishing a policy to pre-fund benefits for employers that participate in the LODA Fund (Chapter 6, page 81).

1 Virginia's Line of Duty Act

SUMMARY The Line of Duty Act (LODA) provides a one-time death benefit and ongoing health insurance benefits to surviving spouses, disabled public safety officers, and their families. The eligibility criteria and benefits have changed significantly since the LODA program was created as a \$10,000 death benefit in 1972, but police officers and firefighters remain the core covered populations. Virginia is one of only eight states to provide both a death and health insurance benefit specifically for state and local public safety officers. In FY 2013, 952 surviving spouses and disabled beneficiaries received \$12.2 million in benefits, mostly for health insurance (92 percent). Employers pay for these benefits by participating in the LODA Fund at the Virginia Retirement System or through various methods of self-insurance. The Department of Accounts determines eligibility for all claims and administers benefits for state agencies and localities that pay for benefits through the LODA Fund. Localities that do not participate in the LODA Fund administer their own benefits.

The General Assembly's mandate for this study directs JLARC to perform a comprehensive review of Virginia's Line of Duty Act (LODA). Specific areas of interest include the "current implementation of the Act, the current and projected future costs of benefits awarded thereunder, and the advisability of coordinating those benefits with additional benefits paid under other state and federal programs" (Appendix A). To address the mandate, JLARC staff interviewed state and local agency staff charged with administering the program, staff from programs that provide benefits to similar populations, and representatives of stakeholder groups for public safety officers in Virginia (Appendix B). JLARC staff also collected and analyzed data from state and local agencies and researched similar benefit programs in Virginia and other states.

Line of Duty Act provides death benefits and health insurance benefits to public safety officers

LODA provides benefits to the families of public safety officers who are killed or permanently disabled in the line of duty. The eligibility criteria and benefits provided under the statute have expanded over time, and Virginia is now one of only eight states to provide a death benefit and health insurance benefits to both state and local public safety officers. The program is part of a broader set of benefit programs available to public safety officers and their families in case of death or injury, including workers' compensation, employer-provided disability benefits, and Social Security Disability Insurance (SSDI).

Line of Duty Act covers primarily state and local law-enforcement officers and firefighters

LODA was enacted in 1972 to provide a death benefit to state and local law-enforcement officers and members of local fire companies and rescue squads, including volunteers. Additional public safety occupations were added over time, including correctional officers, emergency management personnel, other state law-enforcement officers, and members of the Virginia National Guard. While the number of covered occupations is extensive, the core covered population still comprises police officers and members of fire companies and rescue squads. In FY 2013, state police officers and local police and firefighters made up more than 75 percent of covered individuals (Table 1-1).

TABLE 1-1
Original covered occupations are the majority of the LODA population

Year added	Covered occupation	Individuals covered as of FY 2013
1972	Law-enforcement officers	62,974
	Members of recognized fire companies and rescue squads	
1974	Virginia National Guard	7,595
1976	Correctional officers	7,622
	ABC special agents	
1977	Game wardens	167
1986	Commissioned forest wardens	137
1995	Virginia Marine Resources Commission employees with power to arrest	64
	Department of Conservation and Recreation conservation officers	98
	Regional jail officers and jail farm superintendents	3,133
1996	Department of Emergency Services hazardous materials officers	11
2003	Police chaplains	Unknown
	Local employees performing emergency management duties for declared state of emergency	Unknown
2012	DMV enforcement division sworn employees	68
Total		81,982

SOURCE: JLARC staff analysis of the Code of Virginia and data collected from VRS and non-participating localities. NOTE: Virginia National Guard figure includes members of fire companies protecting National Guard facilities added in 2012. Data collected did not distinguish police chaplains or emergency management personnel, but interviews indicate few if any are included in localities' counts of covered employees.

Lifetime benefits provided when public safety officers are killed or permanently disabled

The LODA program originally provided a \$10,000 lump sum death benefit to surviving spouses of public safety officers who died in the line of duty. There have been three primary changes to the events covered and the benefits provided by LODA since then. In addition to providing a one-time benefit for deaths occurring directly in the line of duty, the program now also covers disabled public safety officers and their families, includes deaths or disabilities from presumptive causes, and provides health insurance benefits.

In 1976, public safety officers who died of certain occupational diseases, such as heart disease, respiratory disease, and certain cancers, became eligible for the death benefit. These medical conditions are presumed to be caused by the public safety officer's occupation due to the risks inherent in the job responsibilities, and the conditions are therefore referred to as "presumptive causes."

The most significant changes to the program occurred in 2000, when public safety officers with permanent disabilities became eligible for benefits, which were expanded to include lifetime health insurance coverage. Beneficiaries are considered to be disabled under the LODA statute if they submit medical evidence that they are unable to perform their prior occupation, and this disability is likely to be permanent. The addition of health insurance benefits resulted in a significant increase in the number of beneficiaries because coverage was also extended to the families of deceased public safety officers. The death benefit has increased over the years and is now \$100,000 for death occurring as a direct and proximate result of duties and \$25,000 for death by a presumptive cause (Figure 1-1).

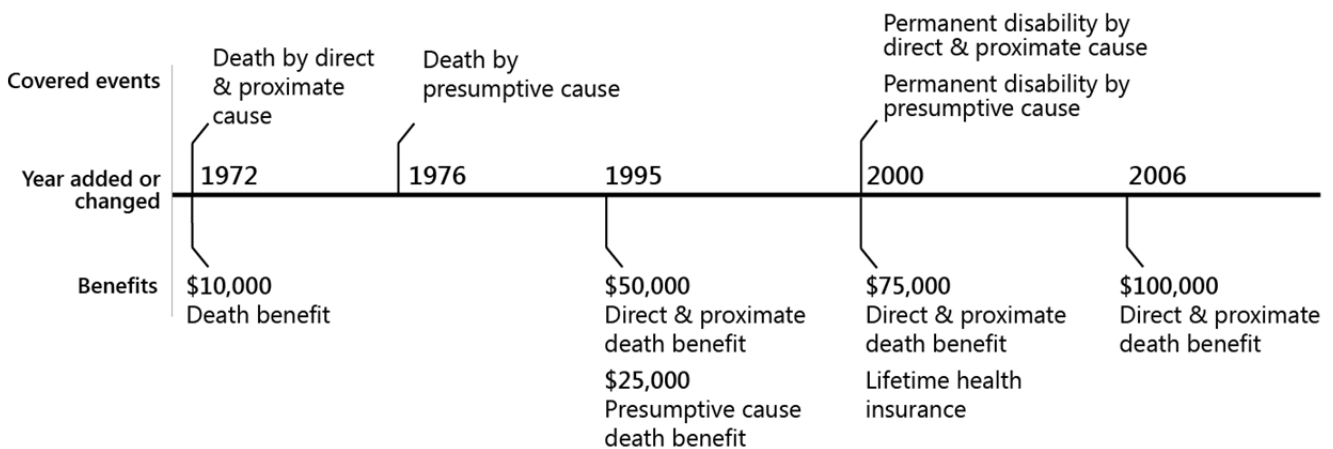
Direct and proximate cause

Death or disability resulting from the performance of duty.

Presumptive cause

Occupational diseases arising out of and in the course of employment; presumed to be suffered in the line of duty unless presumption is overcome by a preponderance of evidence.

FIGURE 1-1
Covered events and benefits have expanded over time



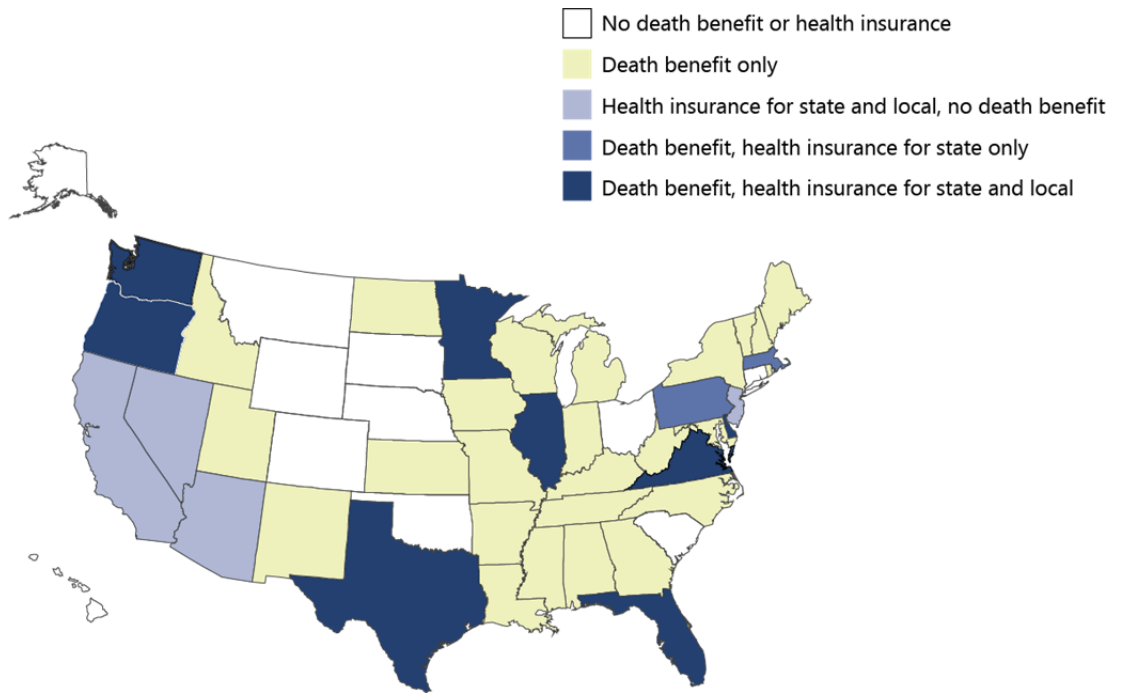
SOURCE: JLARC staff analysis of the Code of Virginia.

Some LODA beneficiaries can receive health insurance coverage for a lifetime. Surviving spouses' benefits are discontinued only if they elect to switch to alternative health insurance coverage, such as health insurance available through an employer. For disabled public safety officers and their spouses, benefits are discontinued only if the disabled individual returns to work in a LODA-eligible occupation. Benefits for dependents are discontinued upon marriage or at age 21, whichever comes first, or at age 25 if they are full-time college students. Dependents are eligible for lifetime benefits if they have a permanent disability.

Virginia is in a minority of states providing both death benefits and health insurance benefits

Eleven states provide neither death nor health insurance benefits to public safety officers, and 26 other states provide only a death benefit (Figure 1-2). A total of 14 states, including Virginia, provide health insurance benefits to the families of deceased or disabled public safety officers. Of those, seven states and Virginia provide an accompanying lump-sum death benefit to both state and local public safety officers. Of these seven states that provide both benefits to state and local public safety officers, none provide benefits under as many circumstances as Virginia (Appendix C).

FIGURE 1-2
Seven other states provide both death benefits and health insurance benefits to state and local public safety officers



SOURCE: JLARC staff analysis of information collected from other states.

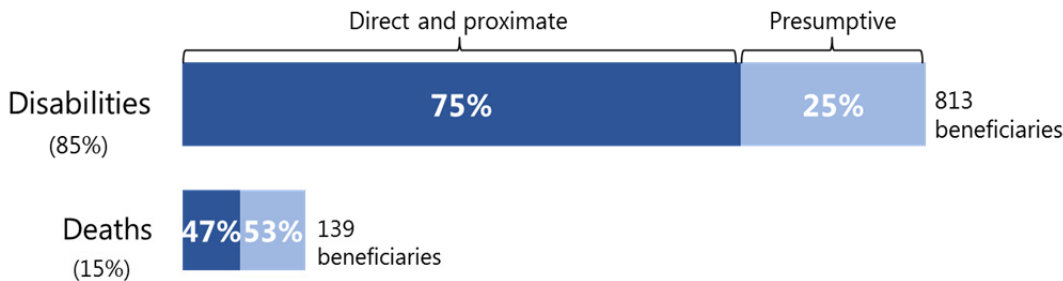
Most LODA beneficiaries are disabled and receive benefits from multiple sources

In FY 2013, LODA benefits were provided to 952 disabled public safety officers and surviving spouses. Disabilities by direct and proximate cause are the most common reason for LODA eligibility. Beneficiaries tend to be representative of the covered population in that they are primarily police officers and firefighters from the largest LODA employers. These beneficiaries are eligible for other, complementary benefits as a result of their death or disability.

Most LODA beneficiaries are eligible due to a disability

The majority of LODA beneficiaries are eligible for benefits due to a permanent disability sustained as a direct and proximate result of work-related activities. Eighty-five percent of beneficiaries in FY 2013 were eligible based on a permanent disability. Seventy-five percent of these disabilities were the result of direct and proximate causes. Deaths accounted for 15 percent of beneficiaries in FY 2013, and more than half of those deaths were the result of presumptive causes (Figure 1-3).

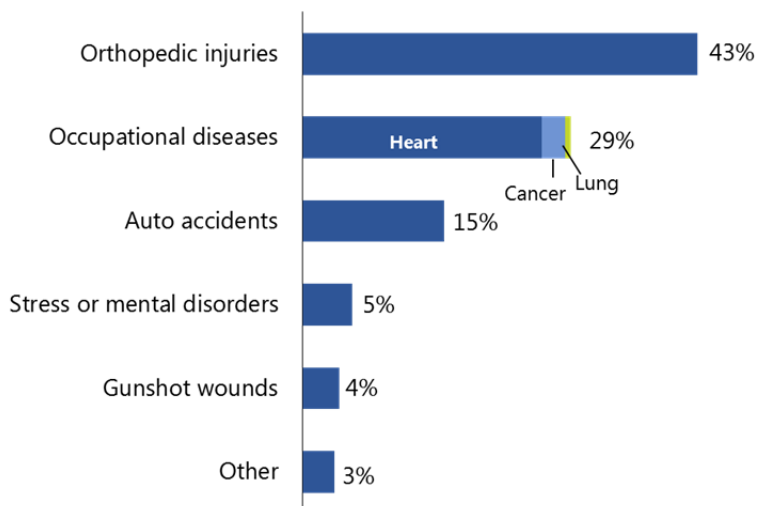
FIGURE 1-3
Direct and proximate disabilities are the most common cause of eligibility for LODA beneficiaries (FY 2013)



SOURCE: JLARC staff analysis of data provided by DOA and non-participating localities.

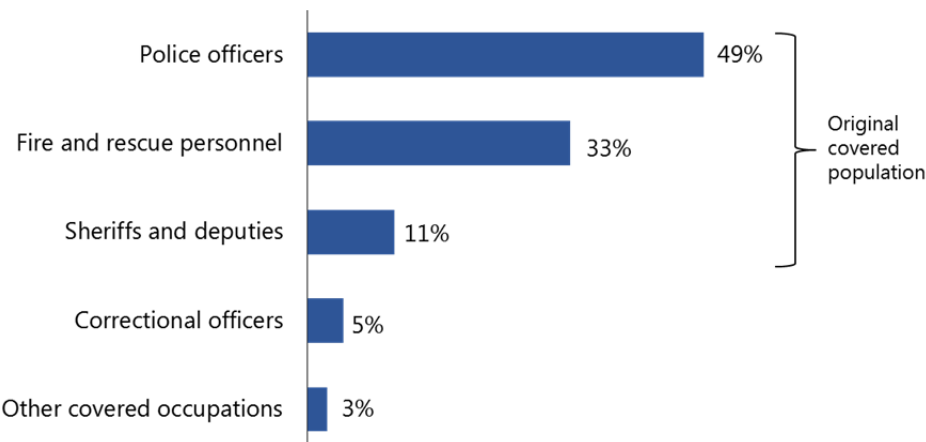
The circumstances leading to the deaths or disabilities of LODA beneficiaries vary. The most common cause of permanent disabilities is orthopedic injuries, which are often to the back or spinal cord. Occupational diseases, particularly heart conditions, are another leading contributor to deaths and disabilities. Other disabilities and deaths are caused by a variety of incidents including auto accidents, gunshot wounds, and firefighting accidents (Figure 1-4).

FIGURE 1-4
Orthopedic injuries and occupational diseases are leading causes of deaths and disabilities for LODA beneficiaries (FY 2013)



SOURCE: JLARC staff analysis of data provided by DOA, VRS, and non-participating localities.
 NOTE: N=952 deceased or disabled public safety officers. Numbers may not add due to rounding.

FIGURE 1-5
Original covered occupations account for 92 percent of LODA beneficiaries (FY 2013)



SOURCE: JLARC staff analysis of data provided by DOA and non-participating localities.
 NOTE: N=952 deceased or disabled public safety officers. Numbers may not add due to rounding.

Majority of LODA beneficiaries were law enforcement or fire personnel from a few localities

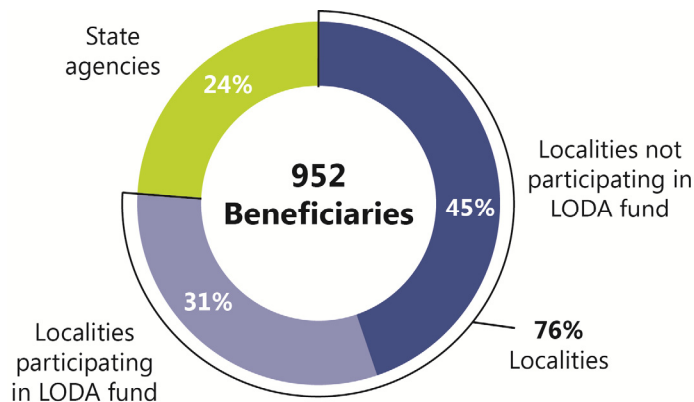
In FY 2013, most LODA beneficiaries were former law enforcement officers and firefighters, the original occupations covered by LODA, or their surviving spouses. Police officers, including sheriffs and sheriff’s deputies, accounted for 60 percent of FY 2013 beneficiaries, the most of all covered occupations (Figure 1-5).

Approximately three quarters of the disabled public safety officers and surviving spouses receiving benefits in FY 2013 were former local employees, primarily of localities that do not participate in the LODA Fund (Figure 1-6). Benefits were paid by 113 different employers. The 10 employers with the most beneficiaries accounted for 67 percent of those receiving benefits, yet they represented less than 20 percent of the population covered by LODA (Table 1-2).

LODA Fund

The Appropriation Act of 2010 established the Line of Duty Act Fund, operated by the Virginia Retirement System, as a mechanism to fund LODA benefits. State agencies are required to participate in the Fund and participation for localities is voluntary.

FIGURE 1-6
Most LODA beneficiaries are from localities (FY 2013)



SOURCE: JLARC staff analysis of data provided by DOA, VRS, and non-participating localities.

TABLE 1-2
A few large employers account for a disproportionately high number of LODA beneficiaries (FY 2013)

Employer	FY 2013 beneficiaries	FY 2013 covered population
Virginia State Police	195	1,950
City of Virginia Beach	93	1,715
City of Alexandria	58	744
Fairfax County	55	3,681
City of Chesapeake	51	1,112
Arlington County	50	902
City of Norfolk	45	1,791
Henrico County	41	1,612
Prince William County	33	1,801
City of Suffolk	21	702
Subtotal top 10 employers	642 (67%)	16,010 (20%)
Remaining employers (N=103)	310 (33%)	65,972 (80%)
Grand total	952	81,982

SOURCE: JLARC staff analysis of data provided by DOA, VRS, and non-participating localities.

NOTE: Total covered population for remaining employers includes all remaining employers, not just those with active beneficiaries (N=347).

LODA beneficiaries have access to other programs that provide complementary benefits

Many LODA beneficiaries are eligible for other types of benefits in cases of death or disability (Table 1-3). These benefits come from a variety of sources including federal, state, and nonprofit programs. The primary sources of benefits for LODA beneficiaries are the Virginia Workers' Compensation (VWC) program, their employers' life insurance and disability programs, Social Security Disability Insurance (SSDI), and the federal Public Safety Officers' Benefits (PSOB) Programs. Beneficiaries may receive death benefits from multiple programs. Although several programs make health insurance benefits available to LODA beneficiaries and their families, these are coordinated to avoid duplication.

Public safety officers killed in the line of duty may receive death and income benefits from multiple sources

Group life insurance through the state and local employers and PSOB each provide a lump sum death benefit similar to the LODA benefit. Virginia Retirement System (VRS) life insurance benefits are available to all state and participating local employees regardless of whether their job is public safety related. VRS provides a basic benefit equal to twice the individual's salary as well as supplemental benefits for deaths that are accidental or result from a felonious assault. Depending on the nature of the incident, the life insurance benefit can be more than four times the individual's salary. Certain localities do not participate in VRS programs but may offer death benefits to their employees.

The PSOB Programs, enacted shortly after LODA in 1976, provide a death benefit of more than \$330,000 to all public safety officers nationwide who die as a direct and proximate result of injuries sustained in the line of duty. The specific amount of the benefit is increased annually with inflation.

Workers' compensation and employer-sponsored retirement programs cover almost all LODA-eligible public safety officers, providing wage replacement to surviving spouses and family members. Workers' compensation provides two thirds of the deceased employee's salary for up to 500 weeks. VRS retirement plans for state and participating local employees provide a monthly benefit that is offset by workers' compensation benefits. The families of deceased individuals can also receive a refund for any contributions made to the retirement plan during the deceased's career.

Public safety officers permanently disabled in the line of duty may receive multiple types of health care benefits

Disabled public safety officers are likely to be eligible for health care benefits from both VRS and workers' compensation. These benefits are either coordinated or pay for different health care costs and therefore complement LODA's health insurance

benefit. VRS provides a Health Insurance Credit, which assists individuals with paying health insurance premiums. When disabled LODA beneficiaries from state agencies and participating localities are eligible for the VRS Health Insurance Credit, the amount of the benefit is used to offset the cost of LODA benefits. The amount of the monthly benefit varies with the employee's years of service and whether the employer was the state or a local government.

Workers' compensation provides lifetime medical benefits for any health care services related to the qualifying injury or occupational disease. The cost of any qualifying medical service is billed directly to the employer's workers' compensation program instead of to the beneficiaries' health insurance plan. This benefit does not overlap with the payment of health insurance premiums but reduces beneficiaries' out-of-pocket costs for medical services as well as the cost to the beneficiaries' health insurance plan.

Disabled public safety officers can also become eligible for Medicare based on their disability once they receive SSDI benefits for two years. SSDI provides wage replacement benefits for disabled individuals who are unable to work in an alternative occupation. LODA beneficiaries who become eligible for Medicare through SSDI do not receive any additional benefits, but their eligibility results in cost savings for LODA employers because Medicare supplemental insurance premiums are significantly less expensive than full health insurance premiums.

TABLE 1-3
Most LODA beneficiaries receive complementary benefits from other programs

Program	Source	Benefit provided	Percentage of beneficiaries receiving benefit
Death benefits			
VRS Life Insurance	Employer	2X-4X Salary	52%
PSOB	Federal	\$330,000	32
Health care benefits			
VRS Health Insurance Credit	Employer	Premium stipend	9%
Workers' Compensation	Employer	Health care for injury	98
Medicare (SSDI)	Federal	Health insurance	20

SOURCE: JLARC staff analysis of data collected from DOA, VRS, DOJ, and VWC.

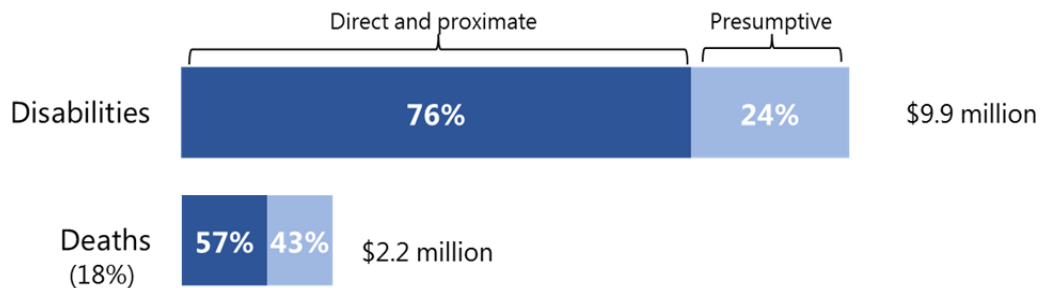
NOTE: Percentages are estimates based on available data for approved LODA claims between FY 2009 and FY 2013. Percentages for death benefits are out of 65 total approved deaths, and percentages for health care benefits are out of 291 total approved disabilities.

Most LODA costs are for health insurance benefits

The cost of the LODA program reached \$12.2 million in FY 2013. Health insurance premiums accounted for most of the costs (92 percent), totaling \$11.1 million. The families of 20 deceased public safety officers received \$1.0 million in death benefits.

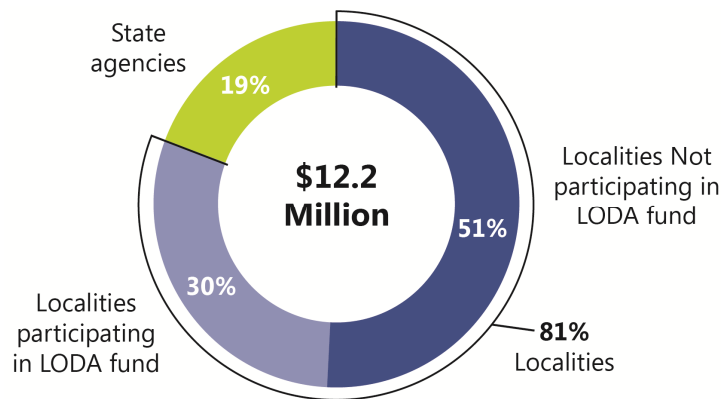
More than 80 percent of benefits in FY 2013 were paid to disabled public safety officers and their families. Most of the payments were to surviving spouses or disabled public safety officers as a result of a death or disability that occurred directly in the line of duty (Figure 1-7). More than 80 percent of benefits in FY 2013 were paid to former local employees and their survivors (Figure 1-8).

FIGURE 1-7
LODA disabilities by direct and proximate causes account for majority of costs (FY 2013)



SOURCE: JLARC staff analysis of data collected from DOA and non-participating localities.
 NOTE: Numbers may not add due to rounding.

FIGURE 1-8
Local beneficiaries account for more than 80 percent of total costs (FY 2013)



SOURCE: JLARC staff analysis of data collected from DOA and non-participating localities.

Employers are responsible for paying LODA benefits

The state and local governments pay for the cost of LODA benefits received by their employees. LODA benefits for all state and local employers were funded with general funds until the Appropriation Act of 2010 shifted payment responsibility to employers. When this occurred, the Virginia General Assembly created the LODA Fund to provide localities with a mechanism to fund these payments. Participation in the Fund was voluntary for localities but mandatory for state agencies. Most localities chose not to participate in the Fund and instead opted to either participate in a group self-insurance pool or individually self-insure (Table 1-4). (See Appendix D for a detailed list of agencies and localities by funding mechanism.)

TABLE 1-4

Employers pay for LODA benefits through the LODA Fund or self-insurance (FY 2013)

Number of Employers

	Participating employers	Non-participating employers			Grand total
	VRS LODA Fund	Group self-insurance	Individual self-insurance	Total non-participating	
State agencies	70	--	--	--	70
Counties	8	81	6	87	95
Cities	14	16	9	25	39
Towns	30	92	--	92	122
Other local agencies	5	25	1	26	31
Total	127	214	16	230	357

Covered Population

	Participating employers	Non-participating employers			Grand total
	VRS LODA Fund	Group self-insurance	Individual self-insurance	Total non-participating	
State agencies	19,451	--	--	--	19,451
Counties	2,448	26,804	11,565	38,369	40,817
Cities	6,303	2,503	7,264	9,766	16,069
Towns	603	1,667	--	1,667	2,270
Other local agencies	239	3,116	20	3,136	3,375
Total	29,044	34,089	18,849	52,938	81,982

SOURCE: JLARC staff analysis of data provided by DOA, VRS, and non-participating localities.

NOTE: State agencies include institutions of higher education and state correctional centers. Other local agencies include regional jails and airport commissions. Numbers may not add due to rounding.

TABLE 1-5
State and local budget impact of the LODA program (\$1,000s, FY 2013)

Employer	State		Local budgets	Total
	General fund	Non-general fund		
State	\$5,477	\$448	--	\$5,925
Participating localities	--	--	3,527	3,527
Non-participating localities	--	--	6,200	6,200
Total	\$5,477	\$448	\$9,727	\$15,652

SOURCE: JLARC staff analysis of data provided by VRS and non-participating localities.

NOTE: Budget impacts for state and participating localities are larger than benefit payments because of repaying a loan to the LODA Fund from the VRS Group Life Insurance program. Budget impact for non-participating localities is estimated to equal benefit payments, but actual budget impact varies based on funding mechanism.

When the payment of benefits was shifted to employers in FY 2011, the state moved some of its annual general fund appropriation for LODA benefits to the state agencies that now have responsibility for paying LODA Fund premiums. Some agencies also use non-general fund sources to pay for premiums. Localities are provided with no additional state money to fund benefits (Table 1-5).

Legislation has been proposed in the General Assembly in recent years to return funding to the state but to do so through a dedicated revenue source. A bill introduced in 2011 would have added an \$0.18 surcharge to the current E-911 fee. This surcharge would have generated \$14.8 million in FY 2013, which was \$2.7 million more than the cost of LODA benefits in that year. However, LODA benefit payments have grown by an average of 11 percent annually over the last five years while E-911 revenue has grown by only 4 percent. It is likely that LODA benefit payments will exceed the revenue generated by the E-911 proposal beginning in FY 2015.

Legislation proposed in 2014 would have used revenue from the Communication Sales and Use Tax to fund health insurance benefits for localities. This proposal would not have generated additional revenue but rather would have paid for LODA benefits out of existing revenue, which is mostly allocated to localities. The state allocated more than \$433 million of Communication Sales and Use Tax revenue to localities in FY 2013. Paying for the \$9 million in LODA health insurance benefits for local beneficiaries from this revenue source would have resulted in a 2.1 percent decrease in the funds provided to localities for general purposes. The amount allocated to localities would further decline as the cost of benefits continues to grow.

Eligibility determination is centralized but benefits administration is divided

Both state and local agencies are involved in administering the LODA program. DOA has administered the program since its origin in 1972. As the responsibility for paying benefits shifted to local employers, the administration of benefits has become more decentralized. Additionally, as the program has grown in size and complexity, determining eligibility and administering benefits has become increasingly challenging.

Eligibility determination performed by central agency

DOA determines eligibility for each LODA claim. The LODA Coordinator reviews the claim and makes a recommendation to the Comptroller, who makes the final determination (Figure 1-9). For approved claims, DOA validates the eligible beneficiaries (spouse and dependents) prior to making a final determination. When the program was created, it was reportedly placed within DOA because the agency was viewed as an “independent arbiter” and because only a few cases had to be reviewed each year. The scope of this responsibility has greatly increased as the program expanded to include health insurance benefits for permanently disabled public safety officers. The number of claims DOA processes each year has increased significantly, and the medical information that has to be reviewed has become increasingly complex.

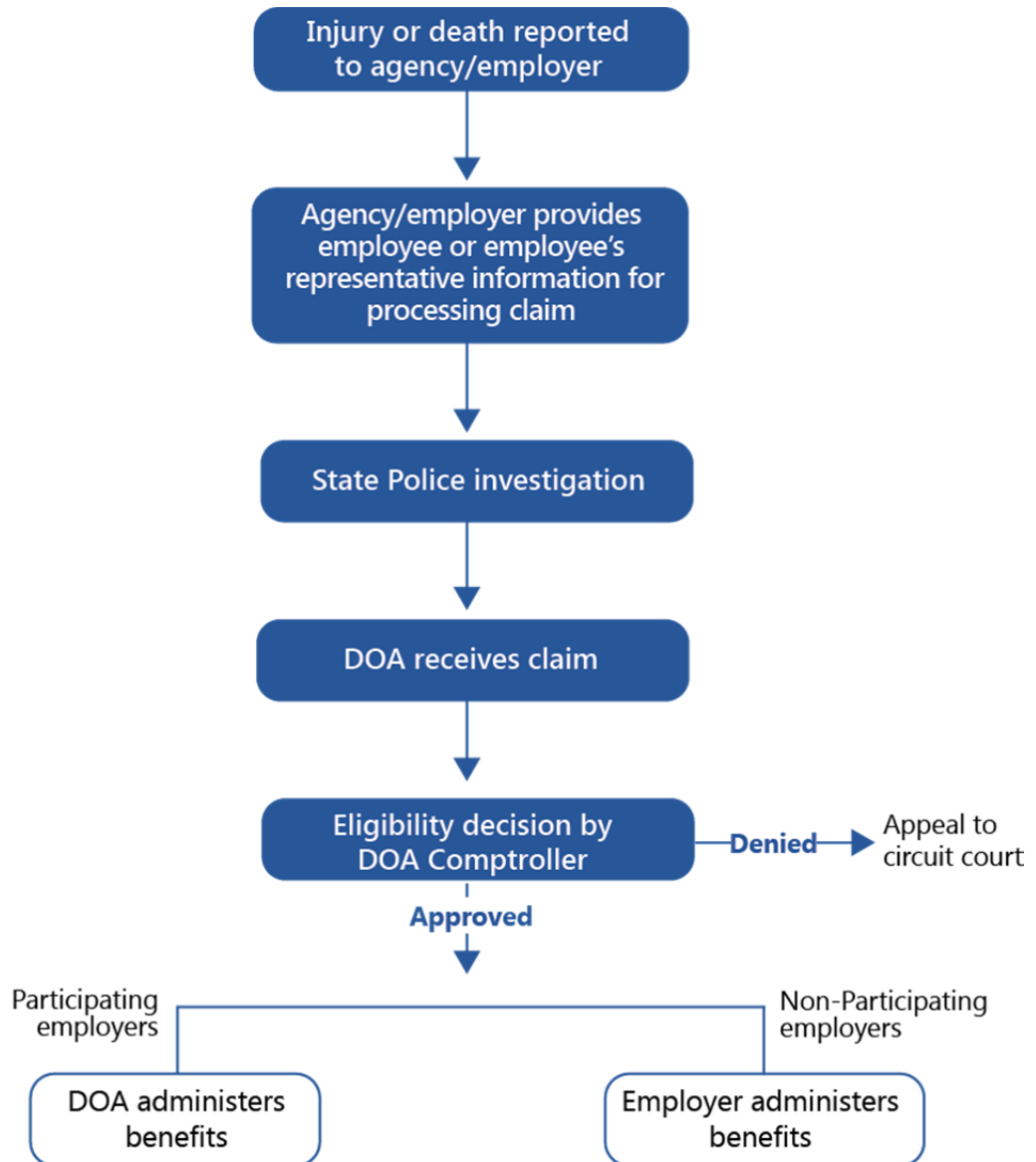
Before DOA receives a LODA claim, it is investigated by either the Virginia State Police or the appropriate local law-enforcement agency. Almost all localities choose to have the State Police conduct the investigation. Investigations involve interviews with family members and employers as well as the collection of documents necessary for DOA to make an eligibility determination. The Virginia State Police is not involved in deciding whether a claim is eligible for benefits. The completed investigation materials must then be submitted to DOA within 10 days, and DOA must make eligibility determinations within 45 days. Claimants can appeal DOA decisions to the circuit court.

Benefits administration divided between DOA and localities

Employers administer LODA benefits depending upon the mechanism selected to fund benefits. DOA administers benefits for all beneficiaries from employers that participate in the LODA Fund, which is run by VRS. VRS collects premiums from employers at the beginning of each year and then reimburses DOA for benefit payments throughout the year. Non-participating employers administer their own benefits. For localities that self-insure through group self-insurance pools, the group administrator collects annual premiums as well as administers and pays benefits for their members. Localities that are individually self-insured manage all aspects of benefit administration and payments internally.

The ongoing administration of program benefits includes determining what health insurance plans will be used by beneficiaries, paying health insurance premiums, and tracking dependents for continuing eligibility. Prior to FY 2013, DOA performed this function for all LODA beneficiaries. This shift has raised concerns that inconsistencies could occur between DOA and non-participating localities.

FIGURE 1-9
LODA eligibility determination process



SOURCE: JLARC staff analysis of the Code of Virginia.

2 Line of Duty Act Cost Trends and Projections

SUMMARY The cost of LODA benefits has more than doubled since FY 2006, increasing from \$5.1 million to \$12.2 million over that time. More than 80 percent of this increase is due to the growing number of disabled public safety officers. LODA costs are projected to more than double again over the next 10 years as additional beneficiaries are approved and the cost of health insurance continues to rise. The premiums required to pay for these benefits will in turn increase for employers that participate in the LODA Fund. While the annual cost of LODA benefits is relatively small compared to total state and local budgets, the total cost of future obligations over the life of the program is projected to exceed \$1 billion within five years, due to the length of time that beneficiaries remain in the program and the rising cost of health insurance premiums.

Understanding the factors that are driving program costs can help identify ways to effectively control those costs. As these factors continue to drive up costs in the future, the state and localities will have to provide increased funding for benefit payments. Projecting future costs allows the state and localities to better plan for the future budget impact of these benefits.

For this review, JLARC contracted with an actuarial consultant to project the costs associated with LODA beneficiaries for both participating and non-participating employers over the next 10 years. These projections provide a baseline under the current program design and policies. The financial impact of alternative program design and policy options can be compared to this baseline. The projections are based on assumptions developed from program experience, but future events may vary significantly for key assumptions such as the number of eligible deaths and disabilities and the health insurance inflation rate. For example, a one percent increase in the assumed rate of health care inflation would result in a more than four percent increase in projected benefit payments. Future program costs could therefore differ significantly from these projections.

Cost of benefits more than doubled since FY 2006

The cost of the LODA program more than doubled in the last seven years, growing by an average of 14 percent annually since FY 2006, after adjusting for inflation. Although the overall cost of LODA benefits was less than 0.2 percent of state and local public safety spending in 2011, rising costs remain a concern. State and local spending on public safety activities remained level over the past five years while the cost of LODA benefits grew by 46 percent. The state and localities that are respon-

sible for paying these benefits have raised concerns that the program may not be sustainable if this rate of growth continues.

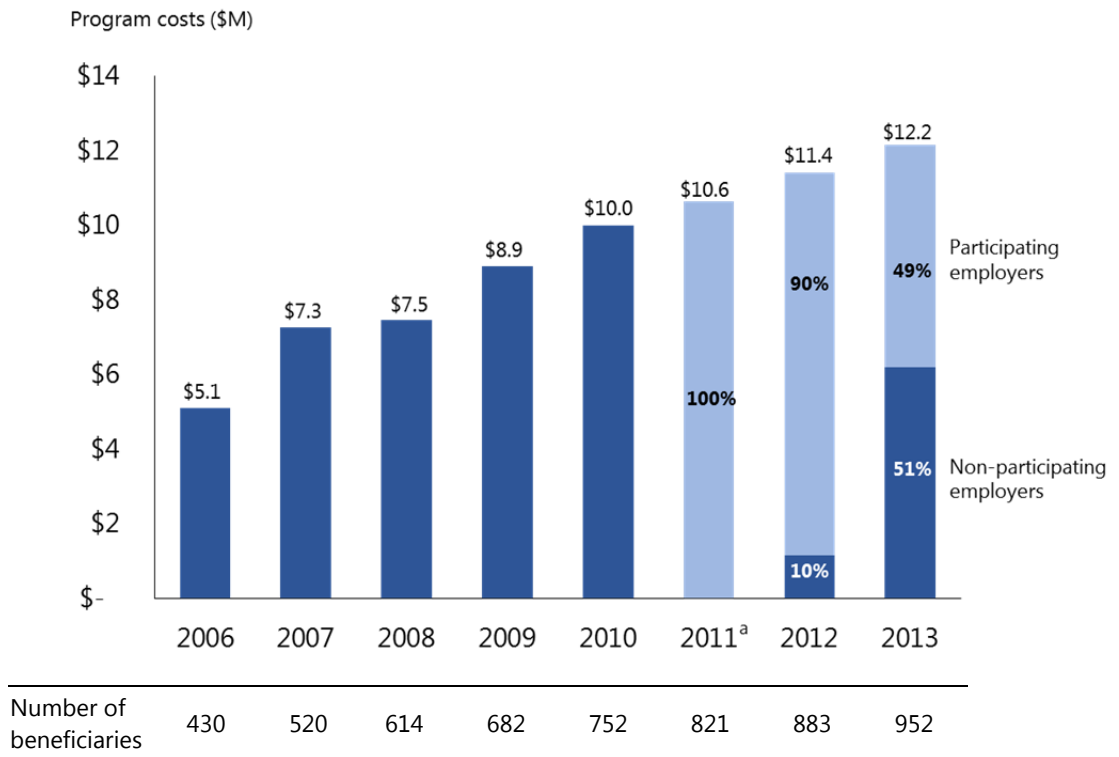
Attrition

Number of beneficiaries who stop receiving benefits each year because of death or return to a LODA-covered position.

Larger number of disabled beneficiaries has been the primary driver of increasing program costs over time

The rising cost of the LODA program has been led by a growing number of disabled beneficiaries, following the expansion of the program from a death benefit in FY 2001. The number of beneficiaries more than doubled from 430 to 952 from FY 2006 to FY 2013, as did total program costs, which increased from \$5.1 million to \$12.2 million in inflation-adjusted dollars (Figure 2-1). An average of 76 new claims were approved for benefits each year, while fewer than five beneficiaries stopped receiving benefits annually. The attrition rate is expected to increase in future years as beneficiaries age, but the number of families receiving benefits will continue to grow.

FIGURE 2-1
Number of beneficiaries and costs have grown since FY 2006 (by fiscal year)



SOURCE: JLARC staff analysis of data provided by DOA, DPB, and non-participating localities.

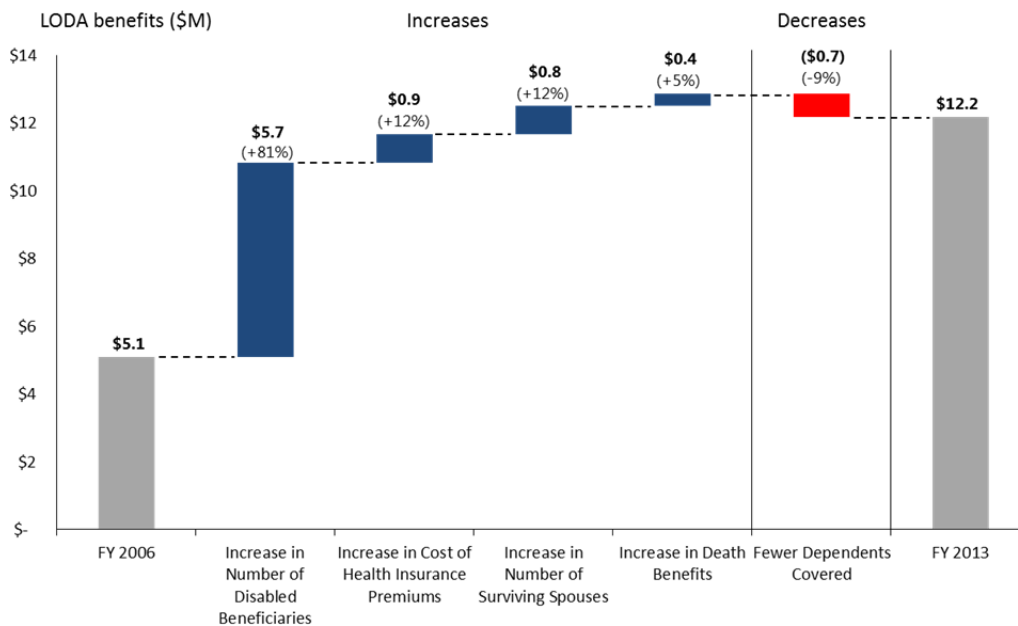
NOTE: All figures inflation adjusted to 2013 dollars.

^a All benefits were paid with general funds prior to FY 2011 when the LODA Fund was created. Localities opted out at the end of FY 2011 and FY 2012.

The rising number of disabled beneficiaries accounts for \$5.7 million (81 percent) of the increase in program costs between FY 2006 and FY 2013. Program costs also

increased due to the rising cost of health insurance policies (12 percent) and the addition of health insurance benefits for surviving spouses of public safety officers killed in the line of duty (12 percent). The benefit payment for deaths by direct and proximate causes increased from \$75,000 to \$100,000 between FY 2006 and FY 2013. This increase, coupled with more death benefits approved in FY 2013 than in FY 2006, accounted for another five percent of the total cost increase. The aging of beneficiaries, which resulted in fewer eligible dependents and more beneficiaries eligible for Medicare, offset some of these increases (-9 percent) (Figure 2-2).

FIGURE 2-2
Increase in number of disabled beneficiaries accounted for majority of cost growth (FY 2006–FY 2013)



SOURCE: JLARC analysis of data collected from DOA and non-participating localities.
 NOTE: Numbers may not add due to rounding.

Cost of benefits and premiums projected to increase significantly in the next decade

The current trend of increasing program costs is projected to continue as the number of beneficiaries and the cost of health insurance grows. This growth will have a direct impact on the premiums charged to employers that participate in the LODA Fund and therefore on the budgets of the state and some localities.

Cost of benefits projected to more than double statewide over the next 10 years

Statewide, the cost of benefits is projected to more than double by FY 2024, reaching \$34 million, compared to less than \$16 million in FY 2015 (Figure 2-3). This represents an annual growth rate of approximately 9 percent over the next 10 years. The cost of benefits is projected to increase slightly more for non-participating employers (11 percent annually) than for participating employers (8 percent annually) over the next decade. Costs for non-participating employers are projected to increase from \$7.6 million in FY 2015 to \$18.4 million in FY 2024, while those for participating employers are expected to increase from \$8.1 million to \$15.7 million.

The projected increase in costs for all employers is driven primarily by the assumed increase in the number of beneficiaries and the assumed growth in the cost of health insurance. The number of new beneficiaries each year is projected to significantly exceed attrition over the next 10 years, so the number of individuals receiving benefits will continue to grow at an average of 3.2 percent annually. The cost of health insurance for this growing population is also expected to increase by an average of six percent annually.

The rate of growth in program costs is projected to slow over the course of the next 10 years. Costs are projected to grow by 12 percent annually over the next three years but by only 8 percent annually over the last three years of the 10-year projection period.

Pay-as-you-go policy

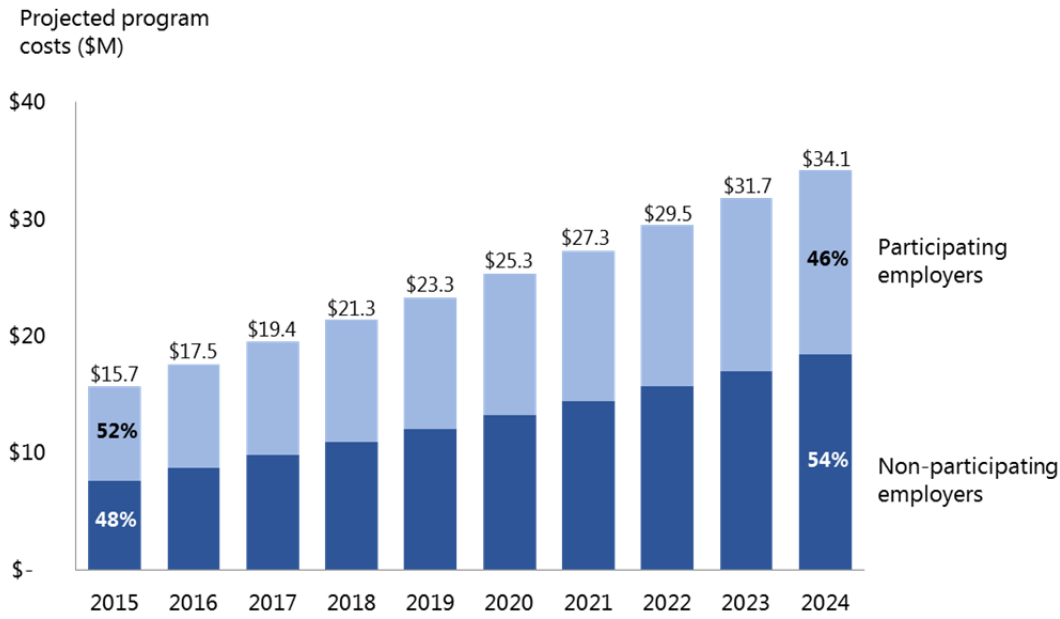
As directed by the Appropriation Act, LODA Fund premiums are calculated so that the total amount collected each year is sufficient to pay for benefits that year. This cost is spread equally across all covered individuals on an FTE basis. Volunteers are counted as 0.25 FTE and National Guard Members are counted as 0.10 FTE for funding purposes.

LODA Fund premiums projected to rise as cost of benefits increases

LODA Fund premiums are established on a pay-as-you-go basis, in accordance with the Appropriation Act. This means annual premiums are sufficient to pay for benefits only in that year. Premiums charged to employers who participate in the LODA Fund are therefore expected to grow at the same rate as the cost of benefits. This results in premiums increasing significantly, from more than \$519 per covered full time equivalent (FTE) employee in FY 2015 to \$766 in FY 2024.

The total premiums paid by state agencies are projected to increase from \$6.4 million to \$9.7 million annually over the next 10 years. Only a portion of this increase would come from general funds, however, as some state agencies with LODA-eligible employees have non-general fund revenue sources and their annual LODA premiums are split proportionally between general and non-general funds (Table 2-1).

FIGURE 2-3
Program costs projected to increase for all LODA employers (by fiscal year)



Projected number of beneficiaries	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
	1,065	1,110	1,155	1,198	1,238	1,278	1,316	1,352	1,387	1,420

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 2-1
LODA Fund premiums generated from multiple revenue sources (\$1,000s)

Fiscal year	State agencies			Total premiums from participating localities
	General fund	Other	Total	
2015	\$6,005	\$441	\$6,446	\$3,860
2016	6,005	441	6,446	3,860
2017	5,503	414	5,918	3,489
2018	5,948	448	6,396	3,771
2019	6,421	483	6,904	4,071
2020	6,875	517	7,392	4,359
2021	7,320	551	7,871	4,641
2022	7,869	592	8,461	4,989
2023	8,403	632	9,035	5,327
2024	8,987	676	9,663	5,698
Total	\$68,719	\$5,813	\$74,532	\$44,064

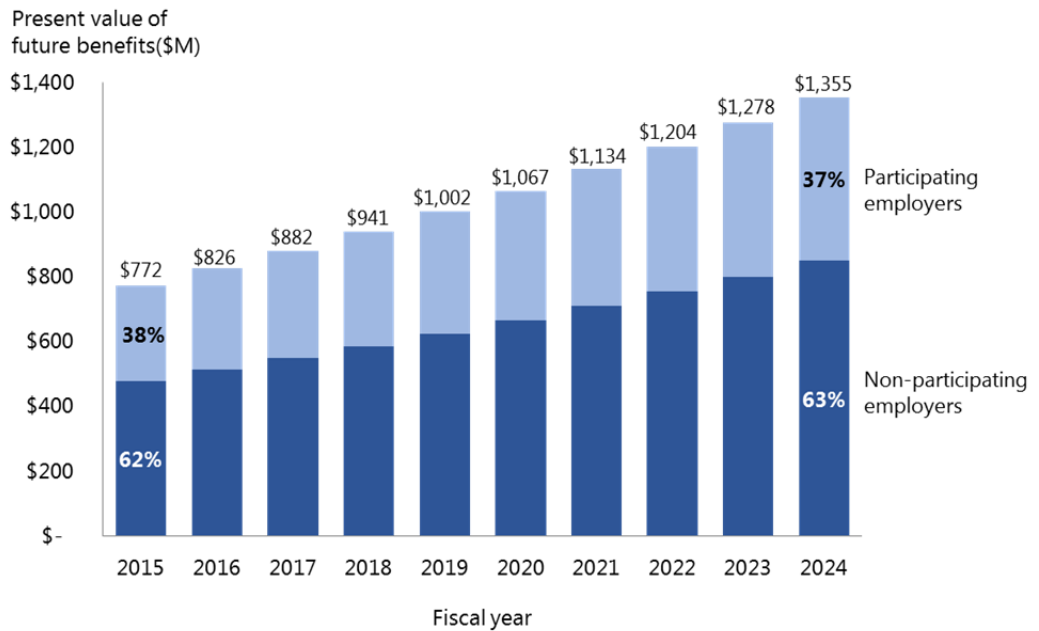
SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

NOTE: The FY 2015 and FY 2016 figures represent the actual rate charged to participating employers. It is higher than the projected pay-as-you-go premium due to an additional contribution required to repay a loan from the VRS Group Life Program to the LODA Fund. Numbers may not add due to rounding.

Total cost of future obligations projected to exceed \$1.3 billion within 10 years

While the annual cost of LODA benefits remains a small percentage of state and local budgets, the total cost of benefits that the state and localities are obligated to pay in the future on behalf of eligible beneficiaries is much greater. The total cost of all future benefit payments is projected to be more than \$770 million in FY 2015, increasing to more than \$1.3 billion in FY 2024, in present value terms (Figure 2-4). This is 40 to 50 times higher than the projected benefit payments in a given year because of the growing number of beneficiaries, the length of time those beneficiaries receive benefits, and the growing cost of health insurance premiums.

FIGURE 2-4
Total cost of future obligations projected to exceed \$1 billion by FY 2019



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

3 Improving the Administration of the Line of Duty Act Program

SUMMARY Eligibility determinations for the LODA program appear to be consistent with the LODA statute, but the Department of Accounts (DOA) is not meeting the statutory time-lines for making eligibility decisions. This delay could result in financial hardship for surviving spouses, disabled public safety officers, and their families. Some of the LODA statutory language is ambiguous and should be clarified to ensure that the program fulfills its legislative intent and to improve the consistency of program implementation. Ambiguous language pertains to eligibility criteria, the administration of health insurance benefits, and the training requirement to make potential beneficiaries aware of LODA benefits. The Act also does not protect the financial interests of employers because employers play no role in DOA's eligibility decisions, nor do they have standing to appeal those decisions. The LODA program is not well aligned with the mission and expertise of its current administrative agency, DOA, and transferring the administration of the LODA program to VRS and DHRM could improve efficiency and consistency.

The administration of the LODA program needs to be efficient and effective to ensure eligible beneficiaries receive appropriate benefits as intended by the LODA statute. To this end, the Department of Accounts (DOA) must make timely and appropriate eligibility determinations and the state and localities must administer benefits consistently to all eligible beneficiaries. The growing size and complexity of the LODA program makes its administration more challenging and has raised concerns among employers and stakeholders.




Eligibility determinations appear consistent with statute but are not timely

DOA appears to be making eligibility determinations that are consistent with the broad criteria set forth in the LODA statute. DOA does not appear to be approving benefits for claimants who are ineligible for the LODA program, which would add unnecessary costs to the program, or denying benefits for claimants who meet the statutory criteria. However, statutory timelines for the eligibility determination process are often not being met, which may have a negative financial impact on claimants and their families.

Eligibility determinations appear to be consistent with statutory criteria

DOA appears to be making eligibility determinations in accordance with the broad eligibility criteria included in the statute. When a claim is filed after the death of a public safety officer, DOA must determine if the cause of death meets the line of duty definition and if it occurred as a direct and proximate result of duties or by a presumptive cause. These same criteria are used to assess disability cases, but DOA must also decide whether the disability is likely to be permanent and whether it prohibits the disabled public safety officer from performing his or her job. Additional criteria, such as when the death or disability occurred, are also considered because they impact eligibility for LODA benefits. DOA relies on information and assessments from a variety of external sources to make these eligibility determinations (Figure 3-1).

FIGURE 3-1
DOA uses a variety of documents to determine whether claims meet eligibility criteria

 Occurred in the Line of Duty	 Direct or Presumptive Cause	 Permanent Disability
Workers' compensation decision Accident report by State Police or other agency conducting LODA investigation Attending physician's report	Death certificate Pre-employment physical Attending physician's report	Retirement information Attending physician's report

SOURCE: JLARC staff analysis of information collected from DOA.

Eligibility determinations made by DOA appear to be supported by documentation

The 356 claims approved for LODA benefits from FY 2009 to FY 2013 appear consistent with statutory criteria based on the documents used to determine eligibility. Nearly all (98 percent) claims were approved for workers' compensation benefits. This generally supports that the death or disability was work-related and therefore occurred in the line of duty. DOA approved five cases that were denied workers' compensation benefits. In one case, the disparity could be explained by differences between the two programs' rules. This case had been denied workers' compensation benefits because the two-year statute of limitations for workers' compensation claims had expired. The five-year statute of limitations for LODA claims had not expired, however, and DOA approved the public safety officer's disability claim based on other documents indicating that the disability was work-related and likely to be permanent.

In the other four cases, the disparities were more difficult to reconcile. DOA relied on information other than workers' compensation decisions to determine whether the claims were consistent with the LODA statute, which does not specify the information that should be used to determine eligibility. One disability claim based on a diagnosis of post-traumatic stress disorder was denied workers' compensation benefits because the public safety officer's condition was not considered to be a compensable accident or occupational disease covered by those benefits. This claim was approved for LODA benefits based on reports from two independent physicians indicating that the claimant's condition was work-related. The three remaining cases were each approved for LODA benefits based on either the heart or lung presumptions. Although the criteria for presumptive causes are the same for workers' compensation and the LODA program, these cases were determined to be ineligible for workers' compensation benefits based on either a lack of evidence or evidence that rebutted the heart or lung presumptions. DOA approved all of these cases based on other information provided in attending physician reports, death certificates, pre-employment physicals, and retirement documents.

In addition to being work-related, the disabilities of public safety officers approved for LODA benefits from FY 2009 to FY 2013 appear likely to be permanent and appear to prohibit them from performing their public safety occupations, based on a review of 50 approved claims during that period. In each of those cases, disabled claimants were forced to retire because of their disability and there was documentation by an attending physician indicating that the disability was likely to be permanent.

All of the 27 claims that were denied by DOA from FY 2009 to FY 2013 appeared to not meet the eligibility criteria. Twenty-two of those cases were denied based on medical criteria, and documentation in each case file demonstrated that the disability or death was either not work-related, not likely to be permanent, or not the result of a covered occupational disease. The remaining five cases were denied based on non-medical criteria that were documented, such as the individual not working in a LODA-eligible position.

Eligibility determinations made by DOA have been consistent with non-medical criteria in statute

The amount and types of benefits for which claimants were approved were also in alignment with the non-medical criteria in the LODA statute. No disabled public safety officer was approved for LODA benefits for a disability that occurred prior to the applicable provision going into effect. A review of payment information from FY 2012 and FY 2013 found that death benefit payments were made as directed by statute: \$100,000 when the cause was direct and proximate and \$25,000 when the cause was presumptive.

FIGURE 3-2
LODA eligibility determination process has three stages subject to statutory time requirements

Statutory Requirements



Actual Average Time



SOURCE: JLARC staff analysis of the Code of Virginia and data collected from DOA and VSP.

NOTE: The average VSP transfer time is based on a sample of 19 investigations completed in 2012. The average VSP investigation and DOA determination times are based on all claims approved or denied between FY 2009 and FY 2013.

DOA often did not meet statutory time requirements

The LODA eligibility determination process for claims between FY 2009 and FY 2013 took longer than required in statute. A reasonable amount of time is required to conduct a thorough investigation and review, but excessive delays cause the families of deceased and disabled public safety officers to wait to receive benefits. The longest phase of the process was the investigation conducted by the Virginia State Police (VSP), which has no statutory time requirement except to be “expeditious” (Figure 3-2). DOA took 75 days to determine eligibility, on average, which exceeded its 45-day requirement.

Long determination times may result in financial hardship for claimants and higher costs to employers

Surviving spouses and disabled public safety officers must pay for their health insurance premiums while their LODA case is being processed. Premiums tend to be significantly higher during this time because many LODA claimants are no longer eligible for subsidized health insurance through their employer and must instead obtain coverage through COBRA, which is typically not subsidized. LODA health benefits are retroactive, but a claimant’s inability to pay the full cost of premiums while waiting for DOA’s determination might result in financial hardship and even a lapse in health insurance coverage. In a few circumstances, this lag time could lead to higher

COBRA

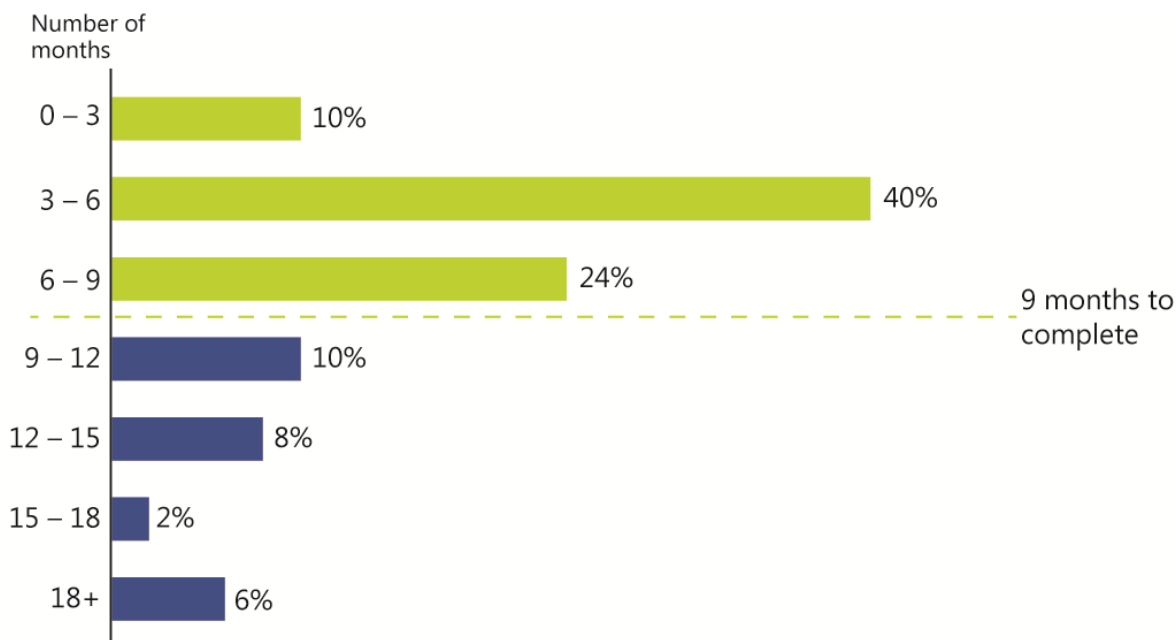
The federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requires employers to continue to offer their health insurance plans to the families of deceased employees for up to 36 months. COBRA does not mandate subsidization of premiums, so recipients may bear the cost of the former employer’s share.

benefit payments for employers if the case is ultimately approved. Specifically, claimants who stop paying COBRA premiums may permanently lose access to their previous employer's health plan. Once LODA benefits are approved, claimants may only be eligible for health insurance through individual health plans, which tend to cost more than state or local health plans.

Half of LODA cases took more than six months to complete

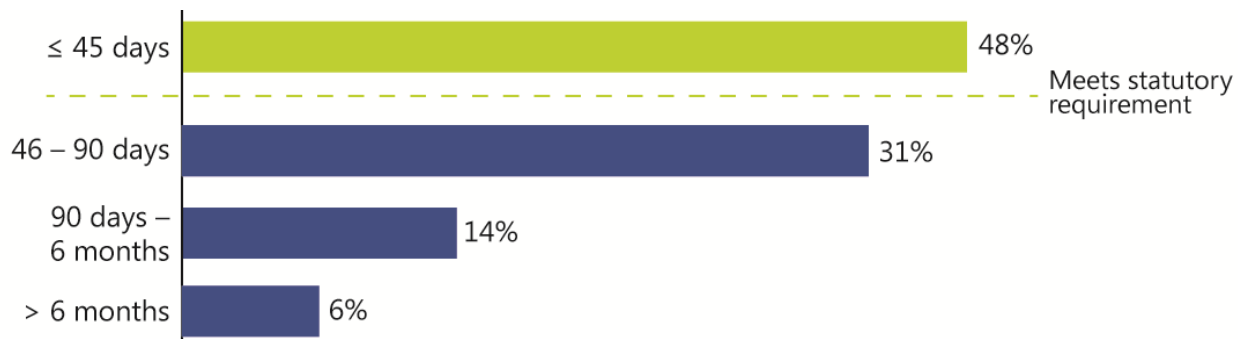
Half of cases reviewed in the last five years took over six months from the start of VSP's investigation to DOA's eligibility determination. Only 10 percent of the cases were completed in less than three months, and over one quarter of the cases took longer than nine months (Figure 3-3). The majority of that time was used by VSP to conduct the investigation, which typically took between three and six months. Once the investigation was completed, VSP appeared to meet its statutory requirement for transferring its investigation files to DOA, typically making the transfer in less than 10 days. VSP and DOA staff agree that delays in transferring case files are not a cause of the lengthy case process.

FIGURE 3-3
One quarter of claims took more than nine months to complete



SOURCE: JLARC staff analysis of data provided by DOA and VSP.

FIGURE 3-4
More than half of DOA eligibility determinations did not meet the 45-day statutory timeline



SOURCE: JLARC staff analysis of data provided by DOA and VSP.

NOTE: Numbers may not add due to rounding.

DOA met its 45-day statutory requirement for less than half of cases in the last five years (Figure 3-4). More than 20 percent of cases were still pending an eligibility determination after three months.

Wait times are affected by specifics of individual cases and agency workloads

The complexity of individual cases, challenges collecting documents, and agency workloads contribute to the total length of time needed to process claims. Disability cases took over two months longer to process than cases involving the death of a public safety officer, primarily due to the complexity of disability investigations. Disability cases require VSP to interview the disabled public safety officer and gather documentation to assess the injury’s permanence and individual’s inability to perform the original occupation. Cases of death and disability by presumptive cause took a month longer than those of direct and proximate causes. Presumptions such as heart disease or cancer are prolonged medical conditions that may produce hundreds of pages of medical records spanning many years. In general, cases that involve complex medical histories require more time to process.

In interviews, VSP and DOA attributed some delays to difficulty obtaining necessary documents from other agencies, physicians, and claimants. Workers’ compensation and disability retirement documents are key factors in LODA decisions, so investigators have to wait for those decisions and the associated documentation. VSP also indicated that collecting medical evidence from employers or physicians can delay the investigation. DOA and VSP both reported that obtaining documentation—birth certificates, marriage certificates, and divorce decrees—to validate the eligibility of spouses and dependents can further delay the process. Depending on the specific family situation and level of awareness of the process among spouses and dependents, obtaining these documents can be difficult, and DOA waits until all documents are collected before making a final eligibility determination.

While a case's individual characteristics play a key role in the time needed to process claims, even a simple case can be delayed by inefficient agency processes and high workloads. For example, it took an average of one month for the VSP investigator to begin working on the case after it was assigned, based on a review of a small sample of lengthier cases. VSP attributed this delay to the large case loads of their investigators. DOA's practice of reviewing cases in the order received can also increase eligibility determination time. Once cases are reviewed, DOA sometimes identifies missing documentation and sends the case back to VSP, increasing the length of DOA's eligibility determination process. Instead, DOA could identify missing or incomplete documentation when it first receives the file, and process cases received previously while waiting for the missing information.

In both agencies, workload demands on staff may reduce the time available for LODA investigations and eligibility determinations. VSP investigators are responsible for background checks on certain state employees, and DOA staff are responsible for administering benefits for participating employers. This includes verifying continued eligibility for beneficiaries, assessing the comparability of insurance plans, and ensuring that benefits are paid appropriately. Additionally, the timing of VSP's investigations influences DOA's workload. In an extreme example, DOA received 24 cases at one time in August of 2012, producing a significant backlog.

Process changes could reduce wait times

Requiring a full investigation for all LODA claims does not appear to be necessary in most cases. Most of the documents collected by the investigation are similar to documents that claimants submit for similar programs, yet these programs do not require a third party investigation. For example, the VRS disability retirement program requires claimants to submit a workers' compensation letter, a physician's report stating that the disability is likely to be permanent, and supporting medical evidence. LODA claimants could be required to submit these or similar documents directly to the administering agency. The Virginia State Police's assistance could be sought in obtaining information on a case-by-case basis, such as when claimants are unable to provide key documents required for eligibility determinations. Narrowing the scope of the investigation could shorten the longest part of the process, allowing for faster eligibility determinations and reducing the financial burden on claimants.

RECOMMENDATION 1

The General Assembly may wish to consider amending the Code of Virginia to eliminate mandatory investigations for Line of Duty Act claims and require claimants to submit documents directly to the agency responsible for determining eligibility for the program. The agency could be permitted to request the assistance of the Virginia State Police with obtaining documents when necessary.

Administrative changes to DOA's case review process may reduce waiting times for claimants and mitigate the potential negative consequences of the lengthy eligibility

determination process. DOA should review investigation files upon receipt, to confirm that the necessary documents have been included. DOA could also notify claimants before finalizing the list of eligible beneficiaries. This would reduce the time claimants have to wait for an eligibility determination and may incentivize approved claimants to provide the documents necessary to begin receiving benefits.

RECOMMENDATION 2

The Department of Accounts should (i) review Line of Duty Act case documentation for completeness and request missing information immediately upon receipt and (ii) notify claimants of the approval or denial as soon as that information is available, rather than waiting until all of the eligible beneficiaries have been validated.

Appeal is available to claimants but not employers

The LODA statute allows claimants to appeal DOA's eligibility determination decisions to the applicable circuit court. In contrast, employers currently have no standing to appeal DOA decisions even though they bear its financial consequences. This practice appears inconsistent with the processes followed by similar programs in Virginia and other states, and it has prompted concern among employers.

LODA allows claimants to appeal but the process is burdensome

Claimants can appeal DOA's decision if their claim is denied or if they disagree with the approved beneficiaries or presumptive cause determination. Of the 584 eligibility determinations made by DOA from FY 2007 to FY 2013, 40 claims (seven percent) were denied, and only five of those denied claims were appealed by LODA claimants. Additionally, some claimants chose to reapply or submit additional evidence to DOA instead of using the formal appeals process.

The LODA statute states that appeals of LODA decisions are allowed "as in civil actions generally." This results in a *de Novo* circuit court appeal, meaning that all evidence from the initial claim must be resubmitted to the circuit court, and that new evidence and testimony is also permitted. As a result, LODA appeals require a significant amount of time and effort. Unlike LODA, other programs in Virginia generally use a streamlined evidentiary administrative appeals hearing in accordance with the Administrative Process Act. Cases that are not resolved through an administrative hearing can be followed by an "on the record" appeal to the circuit court, as warranted. The evidentiary administrative hearing produces a formal body of evidence and justification of the decision, which is used during circuit court appeals instead of having to resubmit evidence to the court.

Interests of employers are not protected by the current process

As the payers of benefits, employers have a clear financial stake in DOA's decisions, but they play no role in the eligibility determination process and have no standing to

***de Novo* appeals versus "on the record" appeals**

de Novo cases require formal submission of all evidence. Unlike "on the record" appeals, which are used in most administrative processes, *de Novo* cases can involve discovery, subpoenas, and other legal actions, requiring more time and resources.

appeal decisions. Based on a survey of individually self-insured localities and the administrators of the group self-insurance pools, eight of 14 localities that self-insure individually indicated that they disagreed with past LODA decisions or expressed concern that they did not have standing to appeal decisions. Both group self-insurance pools, which represent 215 local employers, reported the same concerns. The extent to which the disagreements expressed would have resulted in successful appeals is unknown.

Workers' compensation is the most analogous Virginia program to LODA in that it is mandated by the state but funded by state agencies and local government employers. Employers may voluntarily accept initial claims for workers' compensation benefits and submit an agreement to the VWC Commission to award benefits. The VWC Commission makes eligibility determinations for claims that are not voluntarily accepted, and unlike LODA, both claimants and employers have standing to appeal the decisions. Three states with similar line of duty programs which mandate that employers pay for health insurance benefits give employers a role in the process. Florida and Illinois allow employers to determine eligibility for those benefits, and Minnesota allows employers to appeal eligibility decisions for disability benefits (but not for death benefits). Similar to Virginia, Texas does not allow employers who fund the health insurance benefit to determine eligibility or to appeal eligibility decisions.

Providing employers standing to appeal in an administrative hearing would protect employers' financial interests and improve the efficiency of appeals. By establishing a process with an evidentiary administrative hearing followed by an "on the record" circuit court appeal in accordance with the Administrative Process Act instead of a *de Novo* circuit court appeal, DOA could expedite appeals and limit the administrative resources required. LODA appeals will be automatically subject to the Administrative Process Act if the Code section that provides for appeals to be handled "as in civil actions generally" is repealed. Because administrative hearings are more informal, they require less formal evidence gathering and can be scheduled with less waiting time. Still, resources would be needed to set up an administrative hearing process, conduct hearings, and defend the larger number of cases likely to be appealed. The process established should consider the need for timely appeals to protect claimants and employers. The VRS administrative appeals process, which requires appeals to be filed within 30 days, could be used as a model for LODA. Consideration could also be given to requiring employers to begin paying benefits during an appeal, to further mitigate any potential financial hardship for claimants. An increase in appeals from employers could result in the reversal of some approval decisions, potentially reducing the cost of the LODA program.

RECOMMENDATION 3

The General Assembly may wish to consider amending the Code of Virginia to provide employers with standing to appeal eligibility determinations for the Line of Duty Act program.

RECOMMENDATION 4

The General Assembly may wish to consider amending the Code of Virginia to repeal § 9.1-406, which provides for LODA appeals to be handled “as in civil actions generally.”

Lack of clear criteria may undermine consistent program implementation

Ambiguity in the LODA statute and lack of clear program criteria have resulted in some misunderstandings regarding how eligibility determinations are made, as well as inconsistencies in the implementation of the program. The LODA statute is vague regarding key elements of the program, including the eligibility criteria, the provision of health insurance benefits, and the training requirement. There are no regulations in the Virginia Administrative Code to provide further guidance on how to implement these elements of the statute, and DOA has not developed any formal policies to guide its internal decisions or inform localities of how they should administer these components of the LODA program.

Eligibility criteria for LODA are ambiguous

The lack of statutory guidance about the intent of the Line of Duty Act gives DOA considerable discretion over eligibility determination decisions and makes program administration difficult. For example, the Line of Duty Act specifies that only deaths and disabilities that occur in the “line of duty” are eligible for benefits, but the criteria for DOA to make this determination are not well defined. In the absence of clear direction, the interpretation of the statute has been very broad.

Claimants are currently eligible for benefits if their injury occurred while at work, whether or not their disability resulted from performing duties specific to the public safety function. For example, in one case a police officer was approved for LODA benefits after he was pumping gas in his assigned vehicle in the winter and slipped on ice, injuring his back and causing a permanent disability. In another case, LODA benefits were awarded to the family of a volunteer firefighter who was killed while driving to the scene of a fire. A death or injury is also typically considered to have occurred in the “line of duty” for the purposes of determining LODA eligibility if the public safety officer was assisting in an emergency situation, even if he or she was not on duty. A related issue is whether public safety officers who die as a result of a heart attack while on duty should receive direct and proximate death benefits or the lesser amount for death by presumptive causes. The current practice is to pay the amount allowed by statute for presumptive causes, but the issue has been appealed in a few cases.

The LODA statute also states that disabilities that are likely to be permanent are eligible for benefits, but this requirement is likewise not well defined. Under the current process, the permanency of a disability is assessed at the time of application. In con-

Definition of “line of duty” in the LODA statute

Any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

Definition of “disabled person” in the LODA statute

An individual who has become mentally or physically incapacitated so as to prevent the further performance of duty where such incapacity is likely to be permanent.

trast, other programs have a waiting period or an ongoing assessment to determine whether a disability is permanent because it can be difficult to establish an individual's likelihood of recovery early on. For example, the VWC Commission does not classify a disability as permanent and total until the claimant has received benefits for 500 weeks. VRS assesses the medical condition of members who are on long-term disability through the Virginia Sickness and Disability Program (VSDP) on an ongoing basis, rather than awarding benefits for an indefinite amount of time. These requirements may be waived for certain catastrophic conditions.

Ongoing eligibility criteria after the initial approval are also ambiguous. The LODA statute calls for the benefits of spouses and dependents, but not disabled public safety officers, to be terminated upon health insurance coverage by alternative insurance. It is not clear whether this was intended to terminate LODA benefits if an individual merely has access to alternative insurance or if the individual enrolls in alternative insurance. DOA currently discontinues benefits to surviving spouses and dependents when they actually enroll in an alternative health insurance plan. It is also not clear whether benefits are intended to be discontinued permanently or only while the individual is enrolled in an alternative plan.

Some localities have expressed confusion about the eligibility criteria or doubt about whether criteria are aligned with the intent of the LODA statute. This ambiguity has resulted in uncertainty for employers paying for benefits and has made it difficult for them to plan for future expenses. The lack of direction in statute and the absence of regulations or formal policies create confusion and potential inconsistencies that can only be resolved by clarifying the intent of the statute and developing regulations or formal policies that implement statutory intent.

RECOMMENDATION 5

The General Assembly may wish to consider amending the Code of Virginia to (i) more clearly define the criteria for “line of duty,” “disabled person,” and termination of health insurance upon “coverage by alternative health insurance,” and (ii) require the agency responsible for making eligibility determinations to develop regulations or formal, published policies to implement these statutory changes.

No criteria exist to determine comparability across health insurance plans

A lack of criteria for evaluating the comparability of replacement health insurance plans has resulted in inconsistency in the provision of health insurance benefits to beneficiaries. The LODA statute states that claimants are entitled to the same health insurance plan they had prior to death or disability or a comparable plan. For participating employers, DOA determines comparability by examining whether the new health plan provides coverage that is as comprehensive as their coverage prior to the death or disability, such as the inclusion of vision and dental benefits. Co-pays and deductibles are also considered when evaluating the comparability of a replacement

Health insurance comparability requirement

The continued health insurance coverage provided by this section shall be the same plan of benefits which the deceased or disabled person was entitled to on the last day of his active duty or comparable benefits established as a result of a replacement plan.

plan. Claimants are required to provide three different estimates to DOA, which makes the final decision on whether a plan is comparable.

Non-participating employers administer their own health insurance benefits, and they use a variety of methods to evaluate the comparability of health insurance plans. Some localities base their decision on whether the plan is a Health Maintenance Organization, Preferred Provider Organization or Point of Service plan. Others have focused primarily on the types of benefits offered by each plan when identifying comparable plans. According to one local official,

We have never received any guidance as to any flexibility we might have to require the beneficiary to reduce their coverage to be comparable to ours or how we can determine comparability (price, value, benefit design, etc.)

The development of standard criteria for evaluating the comparability of health insurance plans would increase the consistency of benefits administration across LODA employers, resulting in more predictable benefit decisions and program costs. Department of Human Resource Management (DHRM) staff with expertise in health insurance benefits indicated that assessing comparability using premiums, covered services, and out-of-pocket expenses is appropriate, but that it is a complex assessment requiring in-depth knowledge of health insurance plans.

A related issue is whether health insurance coverage provided through the LODA program should be the same or comparable to the coverage that the beneficiaries had before the death or disability occurred, or to the coverage that is currently available through their prior employer. Coverage provided through health insurance plans is constantly evolving, making it challenging to find plans that are comparable to those available years or decades prior. According to DOA, many health insurance plans provide less coverage at a higher cost when compared to older plans. Because some health insurance plans are no longer available, some beneficiaries are now enrolled in new state or local plans available to active employees, but this has been a source of dissatisfaction among some beneficiaries. To address ongoing changes in health insurance plans, the LODA statute could specify that beneficiaries receive health insurance coverage that is the same or comparable to those plans currently available to active employees.

RECOMMENDATION 6

The General Assembly may wish to consider amending the Code of Virginia to direct the Department of Human Resource Management to develop standard criteria for assessing comparability across health insurance plans, for use by all entities that administer Line of Duty Act benefits.

RECOMMENDATION 7

The General Assembly may wish to consider amending the Code of Virginia to specify that continued health insurance coverage provided through the Line of Duty Act should be the same or comparable to what the public safety officer's former state or local employer is currently making available to active employees.

Training requirements are not implemented consistently

Although employers are required to provide training to employees and volunteers on the benefits that may be available to them in the event of a death or disability, stakeholder groups and DOA staff have raised concerns about whether all LODA employers are providing this training. The LODA statute directs the Secretary of Public Safety to develop training information for state agencies and localities with covered employees. This information is posted on the Department of Criminal Justice Services website, but employers are responsible for providing the training to all covered employees and volunteers. Employers are also required to provide program information to surviving spouses and disabled public safety officers at the time of death or disability, but employers who do not fully understand the eligibility criteria may not be providing this information to all public safety officers and surviving spouses who may be eligible.

Stakeholders indicated that larger employers that have experience with LODA beneficiaries provide sufficient training but that other employers with less capacity and LODA experience may not. If training is not provided consistently by employers, then some public safety officers who are eligible for benefits may not apply for and receive them as intended by the statute. This lack of awareness could have a significant impact on the finances and health of disabled public safety officers, surviving spouses, and their families. In one case, a locality had not provided information on the LODA program to a claimant who was later determined to be eligible for benefits. The claim was filed nearly five and a half years after the disability occurred, and the Comptroller waived the five-year statute of limitations. The claimant was eventually reimbursed for \$80,000 in health insurance premiums.

To raise awareness about the availability of LODA benefits, which is the purpose of the training requirement, employers could obtain a signed designation of beneficiary form from all covered employees and volunteers. This requirement would increase the consistency of awareness about LODA benefits and would provide employers with a standard mechanism to implement the training requirement. Increased awareness would reduce the need to extend the statute of limitations and make it easier for employers to plan for future LODA program expenses. Regularly updating the designation of beneficiaries could maintain awareness and also accelerate the eligibility determination process and delivery of benefits for death claims, because this information can sometimes be difficult for VSP and DOA to obtain.

RECOMMENDATION 8

The General Assembly may wish to consider amending the Code of Virginia to require all agencies with employees covered by the Line of Duty Act to obtain a signed designation of beneficiary form every three years for each covered employee and volunteer.

Line of Duty Act should be administered by a different state agency

DOA began administering the LODA program when it was first created in 1972. Its primary responsibility was to pay death benefits, but the program became more complex when coverage for permanent disabilities and health insurance benefits was added. Moving the administrative components of LODA to an agency with a more compatible mission and expertise could result in program efficiencies and improvements in the delivery of benefits. This will be particularly important if further changes are implemented that introduce additional complexity to the LODA program (Chapters 4 and 5).

Administration of LODA program does not align with DOA mission or expertise

The primary mission of DOA is to provide “a uniform system of accounting, financial reporting, and internal control adequate to protect the Commonwealth’s financial resources.” A majority of DOA staff positions are related to finance, accounting, and payroll. Although eligibility is evident for many LODA claims, some involve complex injuries and circumstances that may require medical expertise to fully evaluate whether the LODA eligibility criteria have been met. Other than the Comptroller and a limited number of program staff, no other DOA staff appear to perform functions relevant to evaluating medical information or health insurance plans. Because there is limited organization-wide knowledge applicable to the LODA program, it is unlikely that other DOA staff will have the expertise or experience necessary to administer this program when current staff members leave.

Administration of the LODA program should be moved to state agencies with relevant expertise

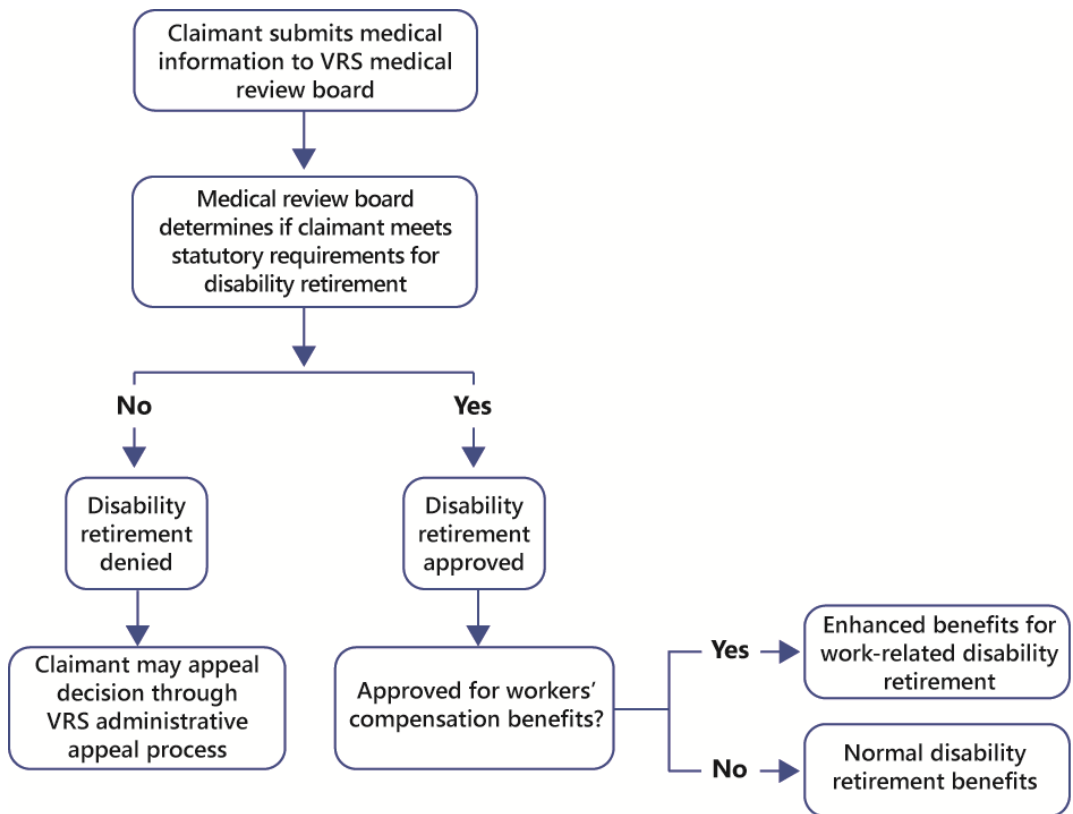
The eligibility determination process for the LODA program may be better suited for an agency such as VRS, which makes similar determinations for work-related disability retirement benefits and whose core mission is related to the delivery of benefits to state and local employees. The administration of ongoing program benefits may be better suited for an agency such as DHRM, which administers health insurance plans for state employees and participating localities. Moving the administrative components of the LODA program to these agencies may improve the efficiency of program administration, and the expertise of these agencies would also increase the

credibility of administrative decisions. Administrative fees currently collected by DOA could be redirected to VRS and DHRM, but they may not fully cover the expenses these agencies would incur to administer the LODA program.

Virginia Retirement System

VRS could improve the eligibility determination process for LODA benefits by leveraging its existing expertise and resources. LODA eligibility for all claims could be determined through a similar process to that for work-related disability retirement benefits, which uses almost identical criteria to LODA (Figure 3-5). This process includes a review of all health and medical statements by a VRS medical review board, which comprises physicians and other health care professionals. If the medical review board determines that the claimant meets the statutory requirements for disability retirement and the claimant has been approved for workers' compensation benefits, then the claimant will receive enhanced benefits for work-related disability retirement. Although the medical board currently reviews disability retirement claims, this process could be used to determine LODA eligibility for claims following the death or disability of a public safety officer.

FIGURE 3-5
VRS process for similar disability benefits could be leveraged for LODA eligibility determinations



SOURCE: JLARC staff analysis of information provided by VRS.

Disability Retirement

Provides lifetime wage replacement for individuals who are unable to return to their original occupation.

Virginia Sickness and Disability Program (VSDP)

Provides wage replacement benefits for up to 24 months for members who are unable to return to their prior occupation. After 24 months, members who are able to return to work in any occupation may lose the wage replacement benefits.

Most LODA beneficiaries are covered by disability retirement programs through VRS, and therefore VRS would already have much of the documentation necessary to make LODA eligibility determinations. Additional documentation would be necessary for claimants who are not covered under these programs. State employees who are enrolled in VSDP, for example, are eligible for the long-term disability program instead of work-related disability retirement. In these cases, the documentation submitted for VSDP benefits could be reviewed by the VRS medical board to determine LODA eligibility. Also, some localities do not use a VRS retirement plan because they have their own program. In those cases, documentation from the localities' disability programs could be reviewed by the VRS medical board to make a recommendation for LODA eligibility. Medical release forms and other procedures may need to be implemented to ensure that the VRS medical board has access to all documentation necessary for making eligibility determinations.

Because VRS relies on workers' compensation decisions to determine if a disability is work-related, a new process would have to be developed for rare cases when claimants may be eligible for LODA benefits even though they are ineligible for workers' compensation benefits. For example, individuals have been approved for LODA benefits even if they were ineligible for workers' compensation benefits due to differences in criteria. To be eligible for workers' compensation benefits, the injury or death must be causally related to job responsibilities, whereas public safety officers are eligible for LODA for any injury or death while on duty, even if it occurs during an activity that happens in everyday life. In these instances, VRS would have to develop a process to determine if the disability or death was work-related.

Although moving the eligibility determination process to VRS may improve the accuracy and credibility of decision-making for the LODA program, it is unlikely to reduce administrative expenses. VRS would likely need to hire a LODA program coordinator, similar to the staff position at DOA, to assist with gathering the information necessary for the medical board. Compensation for physicians who participate on the medical board may increase program expenses. However, efficiencies in the process may be gained by allowing VRS to leverage the process they use for their existing programs. For example, documentation required for disability retirement claims handled by VRS is very similar to what is required for LODA. While the claimants are responsible for submitting disability retirement documents to VRS, VSP gathers the necessary documents for LODA claims. If VRS establishes a similar process for LODA, VSP investigations would no longer be necessary, lowering costs to state agencies and localities and significantly reducing the time required for eligibility determinations (Recommendation 1). In addition, VRS already has an administrative appeals process that could be used for LODA (Recommendation 4). This process would need to be modified if employers are provided standing to appeal

LODA eligibility decisions because employers do not have standing to appeal eligibility decisions for other VRS programs (Recommendation 3).

RECOMMENDATION 9

The General Assembly may wish to consider amending the Code of Virginia to transfer responsibility for making Line of Duty Act eligibility decisions from the State Comptroller to the Virginia Retirement System.

Department of Human Resource Management

As the central human resource agency for state government, DHRM has the expertise necessary to administer health insurance benefits for the LODA program. DHRM could evaluate the comparability of health insurance plans for employers that participate in the LODA Fund and develop criteria to be used by non-participating employers. DHRM does not currently assess comparability for any other programs, but they possess the expertise required to execute this function (Recommendation 6). DHRM could also track beneficiaries for continued eligibility and ensure benefits are paid appropriately for employers that participate in the LODA Fund. Both of these are responsibilities that DHRM carries out for other programs, such as workers' compensation benefits for state employees, and this expertise could be used in its administration of LODA health insurance benefits. This change could improve the consistency of administration across employers and of the health insurance benefits provided, and potentially reduce the cost of the program.

RECOMMENDATION 10

The General Assembly may wish to consider amending the Code of Virginia to transfer responsibility for administering Line of Duty Act health insurance benefits from the Department of Accounts to the Department of Human Resource Management.

4 Reducing Costs While Maintaining Current Eligibility Criteria and Benefits

SUMMARY Because some LODA beneficiaries are not enrolled in the most cost-efficient health insurance plans, there are opportunities to lower program costs without reducing current benefits or changing eligibility criteria. In particular, the use of costly private individual coverage could be minimized by providing access to state and local health insurance plans. Ten percent of LODA beneficiaries currently obtain coverage through individual health insurance plans purchased in the private market because certain rules preclude them from enrolling in the state and local health plans, which cost 20 percent less on average. Allowing LODA beneficiaries to enroll in the state and local health plans available to active employees could save \$6.7 million (three percent) over the next 10 years. Enrolling all LODA beneficiaries in a separate health insurance plan would also eliminate the need for individual plans, and could save more than \$30 million (14 percent) over the next 10 years. Beneficiaries who have access to comparable health insurance plans through an employer could be required to use this coverage, which is subsidized by employers and therefore less costly to LODA. This option could reduce costs by as much as \$1.2 million (11 percent) annually.

Health insurance benefits make up about 90 percent of the costs of the LODA program, and therefore ensuring that health insurance plans are cost-efficient is key to managing spending. Several options exist to reap efficiencies by providing more consistent health insurance benefits. Under these options, health insurance premiums would remain fully subsidized, and there would be no changes to who is eligible for benefits.

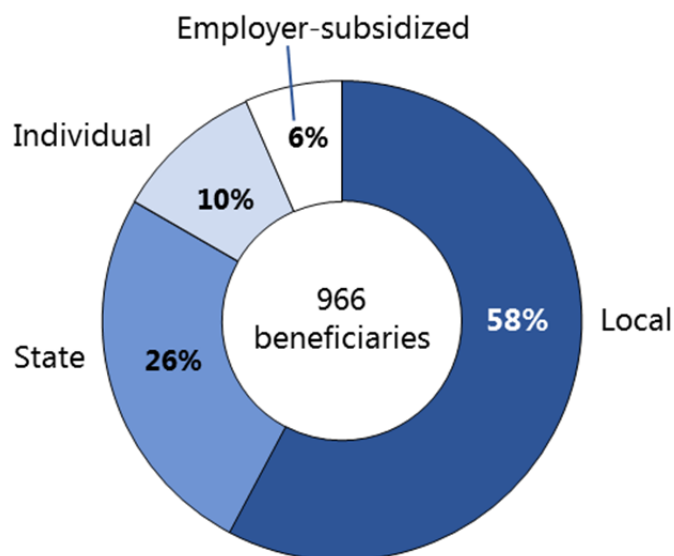
Some beneficiaries are not enrolled in the most cost-efficient health insurance plans

Certain requirements and practices preclude LODA beneficiaries from enrolling in the most cost-efficient health insurance plans. The LODA statute requires that beneficiaries use the same health insurance plan they had at the time of death or disability or that they enroll in another plan that is comparable. Because of this requirement, cost is not the primary factor driving the selection of health insurance plans used by LODA beneficiaries. Rules that limit the use of state and local health insurance plans when public safety officers leave their LODA-covered positions also prevent some LODA beneficiaries from enrolling in more cost-efficient health insurance plans.

Most beneficiaries use a state or local health insurance plan, but some are enrolled in costly, individual plans

Most LODA beneficiaries are enrolled in a state or local health insurance plan through their previous employer, but approximately 10 percent of LODA beneficiaries are enrolled in individual health insurance plans that tend to be far more costly than other insurance mechanisms (Figure 4-1). The remainder are enrolled in employer-subsidized private plans through their current employer or a spouse's employer.

FIGURE 4-1
Types of health insurance plans used by LODA beneficiaries (FY 2012)



SOURCE: JLARC staff analysis of data provided by DOA.

NOTE: The 966 beneficiaries represent beneficiaries on distinct health insurance plans. A disabled public safety officer and spouse on a single plus one plan are counted as one beneficiary.

Beneficiaries without access to any other health insurance plans typically enroll in individual health insurance plans. Individual health insurance plans purchased on the private insurance market are typically the highest cost plans used by LODA beneficiaries. These plans are usually more expensive because premiums are based on the health status of the individuals covered. In cases where LODA beneficiaries became eligible due to a disability, premiums are likely to be higher because disabled claimants tend to have greater health care needs and expenses. Further, individuals are unable to negotiate the lower rates typically available to large employers, and their premiums also include premium taxes, pooling charges, and profit margins for the insurance carrier.

Employer-subsidized health insurance plans are the least costly to the LODA program because employers pay a portion of the premium and the LODA program is responsible only for the remainder of the premium rather than the full cost (Table 4-1). For

example, the monthly cost of health insurance benefits for a single person would be \$192, on average, if coverage was provided through an employer-subsidized plan, versus \$712 through an individual plan.

State plans typically cost more than employer-subsidized coverage but less than local plans. They tend to cover a larger number of employees than local plans, spreading the risk of expensive claims and securing more favorable rates with providers. The average cost to cover a single person through the state plan is \$451, on average, compared to \$569 through a local plan. Local health insurance plans also have a wider distribution of costs because the benefits provided differ substantially among localities.

TABLE 4-1
Local and individual health insurance coverage typically cost more to LODA than state or employer-subsidized health insurance

Type of plan	Monthly cost to LODA program			
	Employer-subsidized plan	State plan	Local plan	Individual plan
Single	\$192	\$451	\$569	\$712
Single Plus 1	374	838	1,006	1,247
Family	525	1,170	1,408	1,203
Medicare	--	252	362	448

SOURCE: JLARC staff analysis of data provided by DOA.

State and local health insurance rules prevent some beneficiaries from using the most cost-efficient plans

Although individual health plans are the least cost-efficient, some beneficiaries must obtain them because current rules prevent them from remaining or re-enrolling in a state or local health plan. The state allows surviving spouses and disabled state employees to remain on the state health insurance plan, but only if they were enrolled at the time of death or disability. Further, they must make an irrevocable decision to do so within 30 days of separation from employment, and they must pay the entire health insurance premium rather than the employee’s share, which is approximately 12 to 15 percent of the total cost (Table 4-2). Some public safety officers and surviving spouses are unable to afford the full premium and lose access to coverage through state health insurance plans. There is currently no mechanism for them to re-enroll in the state plan once they are found eligible for LODA benefits, so they must enroll in individual health insurance plans. In FY 2013, the program spent \$55,000 for one individual “Single Plus One” plan purchased on the private market because the beneficiary did

not pay the premiums required to remain on the state plan after retirement. The same type of plan would have cost about \$10,000 if that claimant had been allowed to re-enroll in the state plan.

TABLE 4-2

Increase in monthly premiums for surviving spouses and disabled employees who remain on state COVA Care Basic health insurance plan (FY 2015)

Type of plan	Employee portion of state plan	Additional cost to remain on state plan	Total
Single	\$75 (12%)	\$529	\$604
Single Plus One	171 (15%)	948	1,119
Family	230 (14%)	1,390	1,620

SOURCE: JLARC staff analysis of data provided by DOA.

Most localities have similar policies as the state, but some do not allow disabled employees on their health plan at all while others offer coverage to a broader population of beneficiaries. The City of Williamsburg does not allow disabled employees, including LODA beneficiaries, to remain covered through the city's health insurance plan. Because some of these beneficiaries must enroll in individual plans, the average cost of health benefits for LODA beneficiaries in Williamsburg is \$22,000, compared to \$12,000 for all local beneficiaries. Unlike the state, the City of Lynchburg and Chesterfield County allow beneficiaries to enroll in the local plan even if they were not enrolled at the time of the death or disability. The City of Hopewell has a similar policy but requires claimants to have been employed for at least 15 years.

DOA rules generally preclude LODA beneficiaries from changing health insurance plans even if they have access to comparable coverage that would be more cost-efficient for the LODA program. For example, DOA does not allow spouses or dependents who are re-employed by a private employer to use a less costly, employer-subsidized health insurance plan if they still have access to their local or state plan. This rule was put in place because the LODA statute calls for the termination of health insurance benefits if a spouse or dependent elects to enroll in an alternative plan. The statute has been interpreted as a permanent termination of LODA benefits, which could result in beneficiaries losing health care coverage if they subsequently become unemployed. Even if the termination of benefits were temporary while the alternative coverage existed, state and local health insurance rules would prevent most beneficiaries from re-enrolling in a state or local health insurance plan if they became unemployed, potentially increasing long-term costs in those cases.

Beneficiaries could be granted access to state and local health plans

Providing LODA beneficiaries with access to state and local health insurance plans would reduce costs for the LODA program while continuing to provide health insurance to all beneficiaries at no cost to them. This option would require the state and certain localities to change their health insurance rules so that all LODA beneficiaries are permitted to enroll or re-enroll in a state or local plan once they are approved for the LODA program. There is a precedent for this type of policy in a different section of the Code of Virginia (§§ 2.2-1205 and 2.2-1206). This statute requires localities to offer continuing health insurance coverage to surviving spouses and dependents of public safety officers killed in the line of duty at the employee rate if they were already enrolled at the time of death. The Line of Duty Act could be amended to similarly require the state and localities to allow *all* LODA beneficiaries to enroll or re-enroll in state or local health plans, whether or not they were previously enrolled. This option would reduce costs primarily for beneficiaries who are using an individual health plan because they lost state or local health insurance coverage. This option would, however, increase the extent to which active state and local employees are already subsidizing the premiums of disabled LODA recipients. About four percent of all current LODA beneficiaries would no longer be enrolled in individual plans, but instead in state and local plans (Exhibit 4-1).

Impact on costs

Employers could save about \$6.7 million over the next 10 years if this option were implemented (Figure 4-2). Projected benefit payments would decrease by approximately three percent annually, a savings of about \$432,000 in FY 2015. By 2024, cost savings would reach nearly \$950,000 annually. LODA Fund premiums for participating employers would be reduced by four percent annually over the next 10 years. This results in a cumulative savings of \$2.9 million for state agencies (\$2.7 million savings to the general fund) (Table 4-3).

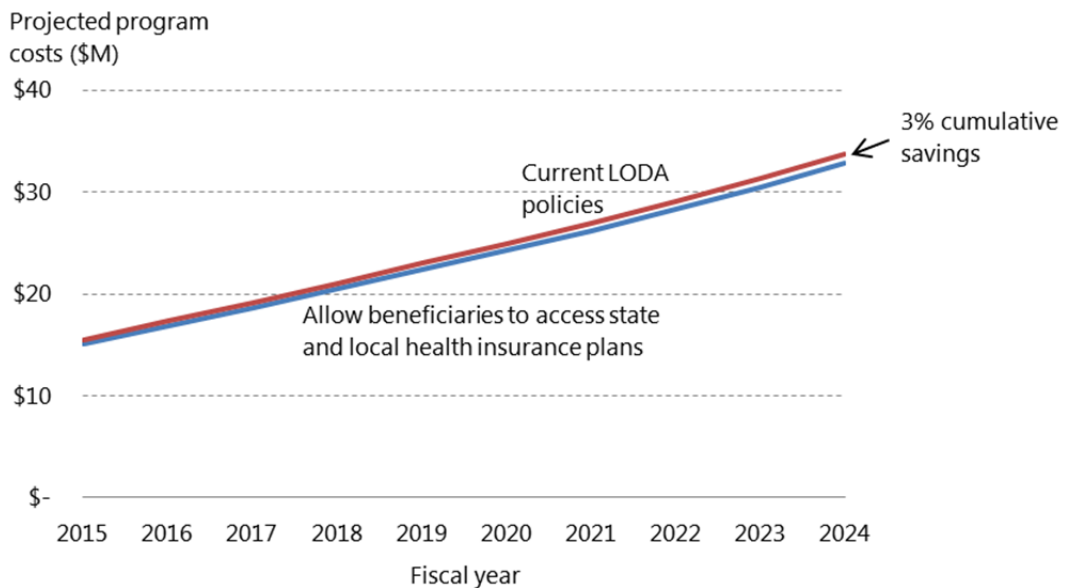
Impact on state and local employees

Health care expenses for disabled LODA beneficiaries currently enrolled in the state and local health plans are 60 percent higher, on average, than their annual premiums. These higher costs result in other members of the state and local health insurance plans, primarily active state and local employees, subsidizing premiums for LODA beneficiaries. If additional LODA beneficiaries access state and local insurance plans, the amount of the subsidy will increase.

High health care costs are driven by a small number of very high cost beneficiaries; most disabled beneficiaries incur health care expenses that are not significantly higher and sometimes less than their annual premiums. In addition, spouses and dependents tend to incur costs slightly lower than the premiums they are charged. The small

number of LODA beneficiaries relative to the total membership in state and local health insurance plans spreads this subsidy over a much larger population. For example, the current subsidy for LODA beneficiaries on state health plans represents approximately \$0.33 of monthly member premiums. If this option was implemented, the number of LODA beneficiaries in state and local plans would increase by approximately five percent, resulting in an additional subsidy of about \$81,000 annually spread across all members of state and local health insurance plans used by LODA beneficiaries. For members of state health insurance plans, this could result in an additional subsidy of approximately \$0.02 per member per month.

FIGURE 4-2
Increased access to state and local health insurance plans would lower LODA benefit payments by \$6.7 million over 10 years



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 4-3
Increasing access to state and local health insurance plans reduces state and local budget impacts (\$1,000s)

Employer	Ten-year cumulative budget impact			
	General fund	Non-general fund	Local funds	Total
State	\$2,728	\$205	--	\$2,933
Participating localities	--	--	\$1,729	1,729
Non-participating localities	--	--	2,025	2,025
Total	\$2,728	\$205	\$3,754	\$6,687

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

Health care costs are more than twice as high for disabled LODA beneficiaries who have settled the medical portion of their workers' compensation claims compared to those who have not. Workers' compensation pays lifetime medical benefits for expenses causally related to the beneficiary's injury. For a LODA beneficiary with a chronic back injury, for example, any surgeries, treatment, doctor's visits, or other necessary medical care would be billed directly to the employer's workers' compensation fund rather than to the health insurance plan. However, employers and beneficiaries may settle their workers' compensation claims, including the lifetime medical benefits, at any time. Under these settlements, beneficiaries receive a one-time lump-sum payment and future health care costs are then billed to the individual's health insurance company. At least 24 percent of LODA beneficiaries approved in the last five years settled their workers' compensation medical claim.

EXHIBIT 4-1

Option 1: Allow beneficiaries to enroll or re-enroll in state and local health insurance plans

ADVANTAGES

- ▶ **Lower costs** to LODA employers by approximately \$6.7 million over the next 10 years
- ▶ **Fewer administrative resources** necessary to evaluate the comparability of replacement plans
- ▶ **More consistent health insurance** coverage across beneficiaries

DISADVANTAGES

- ▶ **Changes required** to state and local health insurance rules
- ▶ **Increased subsidization of health insurance** premiums for some LODA beneficiaries by other members of state and local plans

SOURCE: JLARC staff analysis.

OPTION 1

The General Assembly could consider amending the Code of Virginia to require the state and localities to include (i) being found eligible for benefits under the Line of Duty Act and (ii) losing alternative health insurance coverage after being found eligible for Line of Duty Act benefits as qualifying events for purposes of enrolling in state and local group health insurance plans.

Beneficiaries could use a separate LODA health insurance plan

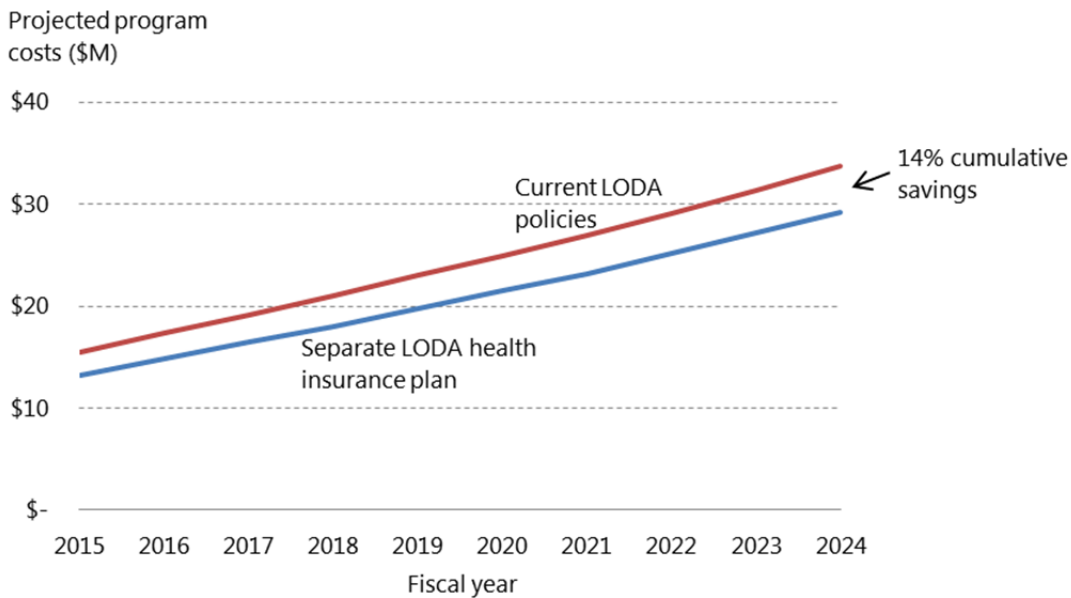
Creating a standard health insurance plan solely for LODA beneficiaries would also reduce the costs of the LODA program while continuing to provide health insurance at no cost to beneficiaries. Under this option, active state and local employees would not have to subsidize the LODA beneficiaries currently enrolled in individual plans. Further, active employees would no longer be subsidizing the more than 900 beneficiaries currently covered through state and local plans (FY 2013). The plan could be managed by DHRM and modeled after an existing plan, such as the COVA Care Basic state plan, which is the one most commonly used by state employees. All LODA beneficiaries would be impacted by this option to varying degrees, depending upon the level of coverage under the new plan relative to their current plan, but it would provide uniform coverage for all LODA beneficiaries (Exhibit 4-2).

Cost savings could be realized by standardizing the health insurance benefit through a LODA-specific plan. The premiums for the LODA health insurance plan would be higher than the current premiums for the state plan because disabled LODA beneficiaries tend to require more health care services. Spouses and dependents would be included in the LODA pool, offsetting some of the higher costs. The resulting premiums could still produce a statewide cost savings for LODA employers because they would be lower than some locality premiums, and DHRM would be actively managing the plan.

Employers could save an estimated \$34 million over the next 10 years if this option were implemented (Figure 4-3). Projected benefit payments would decrease by approximately 14 percent annually, a savings of about \$2.3 million in FY 2015. By FY 2024, cost savings would be expected to reach about \$4.5 million annually. LODA Fund premiums for participating employers would be reduced by about 10 percent annually over the next 10 years. This would result in cumulative savings of \$7.2 million for state agencies (\$6.7 million savings to the general fund) (Table 4-4).

Part of this cost savings would be due to more consistent and active management of the plan by DHRM. This would reduce costs for the plan, thereby lowering premiums and benefit payments. In particular, some current beneficiaries may be eligible for Medicare because they receive SSDI benefits, and yet not be enrolled. DHRM identifies members of the state plan who may qualify for Medicare based on age or eligibility for SSDI benefits through information they receive from the Centers for Medicare and Medicaid Services. Other health plans may not reach out to members as proactively as DHRM does. In fact, LODA beneficiaries who receive SSDI benefits are less likely to be enrolled in Medicare if they are covered through a local health plan than through a state plan managed by DHRM. Identifying and enrolling Medicare-eligible beneficiaries could result in substantial cost savings because premiums for Medicare supplements are far lower than premiums for other plans. The magnitude of savings under this option is heavily dependent on Medicare utilization.

FIGURE 4-3
Creating a separate health insurance plan for LODA beneficiaries could reduce benefit payments by \$33.8 million over 10 years



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 4-4
Creating a separate health insurance plan for LODA beneficiaries reduces state and local budget impacts (\$1,000s)

Employer	Ten-year cumulative budget impact			
	General fund	Non-general fund	Local funds	Total
State	\$6,670	\$502	--	\$7,172
Participating localities	--	--	\$4,229	4,229
Non-participating localities			22,408	22,408
Total	\$6,670	\$502	\$26,637	\$33,809

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

The cost impact of this option will vary significantly by employer, depending on how much their current health care plan costs. More than half of LODA employers (56 percent) would realize some cost savings if their beneficiaries moved to a separate LODA health insurance plan while the remaining 44 percent would experience an increase in costs. Only four percent of employers that currently have beneficiaries in the LODA program would have experienced a total cost increase exceeding \$10,000 in FY 2013. Because most of these employers are in the LODA Fund or a group self-insurance pool, their cost increases would be spread across other employers in these insurance pools.

EXHIBIT 4-2

Option 2: Create a separate health insurance plan solely for LODA beneficiaries

ADVANTAGES	DISADVANTAGES
<ul style="list-style-type: none"> ▶ Lower costs to LODA employers by \$33.8 million over the next 10 years ▶ Elimination of comparability requirement ▶ More consistent health insurance coverage across beneficiaries ▶ Increased predictability of future LODA costs 	<ul style="list-style-type: none"> ▶ Increased costs for certain LODA employers depending on the cost of current health insurance plans ▶ Increased administrative expenses for DHRM to develop and manage a separate plan for LODA beneficiaries ▶ Continuity of health care disrupted for some LODA beneficiaries who may be required to change medical providers

SOURCE: JLARC staff analysis.

OPTION 2

The General Assembly could consider amending the Code of Virginia to direct the Department of Human Resource Management to establish a separate Line of Duty Act health insurance plan and require all Line of Duty Act beneficiaries to enroll in that plan.

Beneficiaries with access to a comparable employer-subsidized health plan could be required to use it

Beneficiaries could be required to use employer-subsidized health insurance plans, which are typically the least costly to the LODA program, when these are available to them and offer comparable benefits. This option would generate cost savings while continuing to provide health insurance coverage at no cost to beneficiaries. Employer-subsidized plans can be available to disabled beneficiaries who are re-employed outside of state or local government or through a spouse’s employment. Consistent with LODA’s existing policy for beneficiaries enrolled in employer-subsidized private health insurance plans, the employee’s portion of the health insurance premium could be paid by the LODA program. Although beneficiaries can opt to be covered through an employer, currently they are not required to do so.

Approximately 30 percent of public safety officers or surviving spouses were employed outside of state and local government in FY 2012. Because not all employers offer health insurance coverage, it is estimated that about 18 percent of LODA benefi-

ciaries had access to an employer-subsidized health insurance plan that year. Still, it is not known to what extent these plans were comparable to state and local health plans.

This option would reduce the cost of health insurance benefits by as much as 11 percent annually. Of the 18 percent who are estimated to have access to an employer-subsidized health insurance plan, if all of those plans were comparable total savings would have been \$1.2 million (11.0 percent) in FY 2013. If only half were comparable, the program could have saved about \$600,000 (5.5 percent) in FY 2013. A majority of these savings (81 percent) would result from moving local beneficiaries, rather than state beneficiaries, to employer-subsidized private plans.

While this option could result in cost savings, it would likely be difficult to administer. If beneficiaries change health insurance plans frequently due to changes in employment status, comparability will have to be assessed each time. This could also result in a lack of continuity in health care because some LODA beneficiaries could be required to change health care providers. In addition, current state and local policies would have to be revised to ensure beneficiaries can re-enroll in state and local health insurance plans if a beneficiary loses access to their employer-subsidized plan (Exhibit 4-3).

EXHIBIT 4-3

Option 3: Requiring LODA beneficiaries to use comparable, employer-subsidized health insurance plans when available

ADVANTAGES

- ▶ **Lower costs** to LODA employers
- ▶ **Reduced subsidization** of LODA beneficiaries by members of state and local health insurance plans

DISADVANTAGES

- ▶ **Additional administrative complexity** to track beneficiary employment status and assess comparability
- ▶ **Continuity of health care disrupted** for some LODA beneficiaries who may be required to enroll in a different plan and change medical providers

SOURCE: JLARC staff analysis.

OPTION 3

The General Assembly could consider amending the Code of Virginia to require Line of Duty Act beneficiaries to use employer-subsidized health insurance plans if available and comparable to the health insurance coverage currently offered by their former employer.

5 Reducing Costs Through Changes in Eligibility and Benefits

SUMMARY LODA's eligibility criteria are more inclusive than comparable programs in Virginia and other states. Unlike similar disability programs, LODA does not assess beneficiaries' ongoing need for benefits. States with similar programs also have more narrow eligibility criteria than LODA, and limit the duration of benefits through a variety of mechanisms. The LODA program could implement an ongoing needs assessment based on beneficiaries' access to affordable health insurance to reserve benefits for those with the greatest need. Limiting benefits to those with the most severe disabilities or to those killed or disabled performing a public safety activity would reduce costs and ensure funding is available for remaining beneficiaries. Investing in prevention initiatives would improve the well-being of the covered population while reducing future benefit payments.

Features of comparable programs and best practices from public safety agencies could be implemented for LODA to reserve benefits for those with the greatest need. These options would require program changes that would likely reduce the number of eligible beneficiaries or the benefits provided to them. The extent to which the availability of benefits should be reduced, if at all, is a policy choice that must be made by the legislature in accordance with the intent of the statute. Multiple policy options, and potential changes to the cost-efficiency of health insurance benefits (Chapter 4), could be implemented in combination to maximize cost savings.

LODA provides benefits under more circumstances than comparable programs

Workers' compensation, Social Security Disability Insurance (SSDI), and Virginia Retirement System (VRS) disability programs are similar to LODA in that they provide benefits to disabled individuals, in some cases based on work-related disabilities. While the initial eligibility criteria for these programs are targeted at a broader population than LODA, they all assess the ongoing need of beneficiaries and discontinue benefits when they are no longer needed. Only eight states, including Virginia, offer both death and health insurance benefits to state and local public safety officers. The seven other states with programs similar to LODA all have more narrowly defined initial or ongoing eligibility criteria.

LODA is the only one among comparable Virginia programs without an ongoing assessment of need

Comparable programs in Virginia all assess beneficiaries' ongoing need based on their recovery, ability to work, and income level (Table 5-1). SSDI cases are reviewed periodically and benefits are terminated when beneficiaries have recovered and are able to return to work in either their original occupation or an alternative occupation. Workers' compensation requires injured workers to actively seek employment and offsets benefits by the amount of income earned by those who are able to return to work in any occupation. Individuals in the VRS disability retirement program can have benefits discontinued if VRS receives a request to review the case and, through that review, determines that the individual is no longer disabled for the purposes of performing their pre-disability occupation. Virginia Sickness and Disability Program (VSDP) benefits are offset by any income earned during the first two years after a disability is sustained. Beneficiaries then undergo a medical review, which coincides with a change in criteria that narrows eligibility from an "own occupation" to "any occupation" standard. This means that benefits are discontinued for individuals who are able to return to work in an alternative occupation, regardless of whether they are actually re-employed. In contrast, LODA benefits are only discontinued if beneficiaries die or the disabled claimant returns to a LODA-eligible position.

TABLE 5-1

Only the LODA program continues to provide benefits after beneficiaries recover

Example: Public safety officer earned \$50,000 prior to disability

Benefits continue if claimant:	Social Security Disability	Workers' Compensation	Virginia Sickness and Disability	Disability Retirement	Line of Duty Act
Has no change in medical or employment status	●	●	●	●	●
Recovers and could work in an alternative occupation	○	●	●	●	●
Earns \$15,000 in an alternative occupation	○	◐	◐	●	●
Earns \$60,000 in an alternative occupation	○	○	○	●	●
Recovers and could work in a LODA covered position	○	○	○	○	●

Full benefits ●
 Partial benefits ◐
 No benefits ○

SOURCE: JLARC analysis of program information from SSA, the Department for Aging and Rehabilitative Services, VWC, VRS and DOA. NOTE: VWC rules require individuals to "market" themselves if their disability allows them to work in an alternative occupation. Ongoing criteria for VSDP benefits are broadened after two years from an "own occupation" to an "any occupation" standard. Criteria in the table reflect the "own occupation" standard.

TABLE 5-2
Virginia has broader eligibility criteria than other states

State	Covered events			Retain insurance after			
	Death	Disability	Presumptive cause	Claimant recovers from disability	Other insurance access	Spouse remarriage	Medicare
Virginia	✓	✓	✓	✓	✓	✓	✓
Florida	✓	✓	✓	✓	✓		✓
Washington	✓	✓	✓		✓	✓	
Illinois	✓	✓		✓	✓		✓
Minnesota	✓	✓				✓	
Oregon	✓	✓		✓			
Delaware	✓			N/A	✓	N/A	N/A
Texas	✓			N/A	✓		

SOURCE: JLARC staff analysis of information collected from other states.

NOTE: Delaware and Texas do not cover disabilities and therefore claimant recovery is not applicable. Delaware only provides health insurance to dependents and not surviving spouses, so spouse remarriage and Medicare are not applicable.

Other states provide fewer benefits in more limited circumstances

Virginia is in a minority of states that provides both a death benefit and health insurance benefits specifically to public safety officers. While 35 other states provide a lump sum death benefit to the families of deceased public safety officers, far fewer provide health insurance benefits similar to LODA. Virginia is one of 14 states to offer health insurance benefits to public safety officers killed or disabled in the line of duty. Only eight of these states, including Virginia, provides health insurance benefits, in addition to a lump-sum death benefit, to state and local public safety officers (Appendix C).

Even within this minority of states, LODA provides benefits under a broader set of circumstances than the other seven states. These other states limit eligibility using a variety of mechanisms (Table 5-2). Some states do this by recognizing fewer covered events and occupations and by periodically reassessing beneficiaries' eligibility over time.

Five states (Florida, Illinois, Minnesota, Texas, and Washington) recognize fewer covered occupations eligible for health insurance than for the death benefit. For instance, all five allow volunteer firefighters to receive the lump-sum death benefit but not the health insurance benefit. Unlike Virginia, two states (Minnesota and Washington) exclude correctional officers from eligibility for health insurance benefits, while four states (Florida, Illinois, Minnesota, Washington) do not include part-time police officers.

All of the seven states recognize fewer covered events than Virginia. Two (Delaware, and Texas) provide benefits to the families of those killed in the line of duty but not

to disabled public safety officers, and three (Florida, Oregon, and Washington) cover fewer disabilities than Virginia. Texas provides disability benefits only to employees who are not eligible for a retirement pension. Only two other states provide benefits based on presumptive causes, an assumption that certain occupational diseases are the result of hazardous duty employment, and one does so in a more limited manner than Virginia by excluding certain circumstances such as incidents caused by intentional self-harm, misconduct, or intoxication.

Other states also limit the length of time that beneficiaries remain eligible for health insurance benefits. Oregon, the only state to use a time limit, discontinues benefits after five years. The other six states limit benefits through ongoing eligibility criteria. Oregon provides benefits only when beneficiaries lack any alternate health insurance. Four states (Florida, Illinois, Oregon, and Texas) discontinue benefits if a surviving spouse remarries. Four states (Minnesota, Oregon, Texas, and Washington) reduce or eliminate benefits upon Medicare eligibility, and Minnesota also eliminates benefits when a disabled beneficiary turns 65, or when a deceased individual would have turned 65.

LODA could assess ongoing need for benefits based on access to affordable health insurance

The ongoing need for LODA health insurance benefits could be assessed based on whether beneficiaries have access to affordable health insurance. LODA health insurance benefits provide access to health care as well as financial support by paying the full cost of beneficiaries' premiums. Beneficiaries with access to affordable health insurance may no longer be in need of the benefit. Although other programs assess medical recovery from the disability, this approach may not be the most appropriate for LODA. In order to be eligible for LODA, public safety officers have to sustain injuries that prevent them from returning to their prior occupation and are likely to be permanent. It is therefore unlikely that LODA beneficiaries will recover sufficiently to return to their public safety occupation due to the physical requirements for many of these positions. However, some beneficiaries may become re-employed in a different occupation and gain access to affordable health insurance for their families.

LODA could reduce benefits for beneficiaries whose incomes exceed a certain threshold

Providing a reduced benefit to LODA beneficiaries with higher incomes would maintain access to health insurance while reserving the full benefit for those with the greatest financial need. For beneficiaries whose household income exceeds 250 percent of the federal poverty level, LODA could pay the portion of the state or local health insurance premiums paid by employers for active employees, and the beneficiary would be responsible for paying the equivalent of the employee portion. Beneficiaries who have access to alternative coverage through re-employment could

switch to that plan, in which case LODA could pay the full beneficiary's premium if it is less than the employer share of the state or local plan.

The federal poverty level is a useful indicator for assessing income because it takes into account household size and total income. Total household size and income should be considered in assessing financial need because health insurance benefits are provided to spouses and dependents. Another advantage of using the federal poverty level is that it is updated annually and therefore would not require establishing a new LODA threshold over time.

Establishing a threshold at 250 percent of the federal poverty level would ensure that the health insurance premiums paid by LODA beneficiaries are affordable. For example, LODA beneficiaries on state health insurance plans would have paid no more than 6.4 percent of income for health insurance premiums in FY 2013 (Table 5-3). This is comparable to the proportion paid by the typical state employee, who earned approximately \$44,656 in FY 2013 and paid 7.0 percent of his or her salary for the maximum family plan coverage.

TABLE 5-3
Employee share of premiums would be in affordable range for higher income beneficiaries (FY 2013)

Size of household	250% of Federal Poverty Level	Annual employee share of premiums	Percentage of income paid for premiums
1	\$28,725	\$1,080	3.8%
2	38,775	2,208	5.7
3	48,825	3,132	6.4
4	58,875	3,132	5.3
5	68,925	3,132	4.5

SOURCE: JLARC staff analysis of information from the US Department of Health and Human Services and DHRM.

NOTE: Numbers may not add due to rounding. Premiums reflect the maximum coverage options under the COVA Care plan.

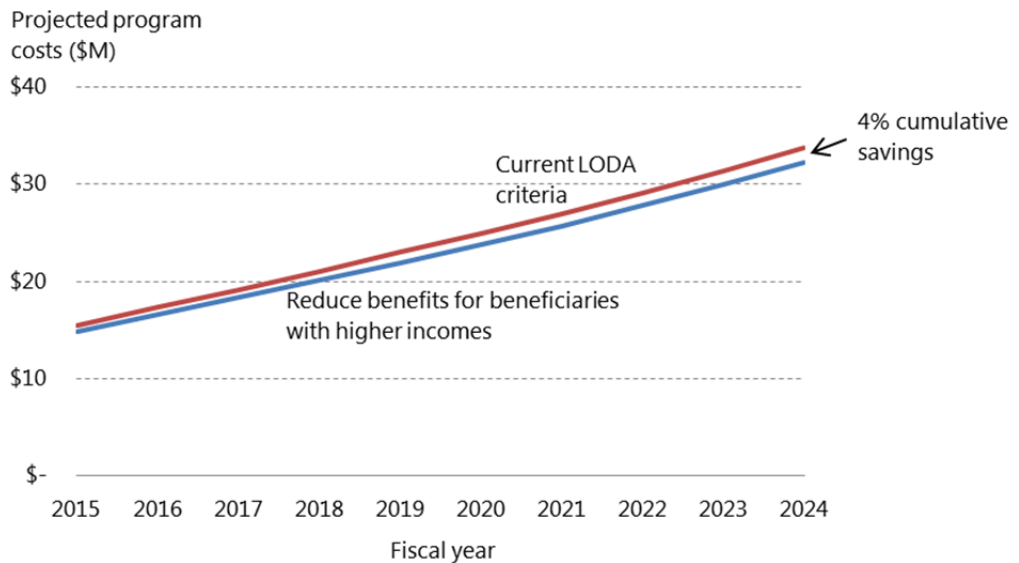
One challenge with requiring beneficiaries to pay the employee portion of their state or local health insurance plan is that the extent to which localities subsidize employee health insurance premiums varies widely. For example, DHRM administers more than 300 local group health insurance plans through a program called "The Local Choice." Across all of these plans, the level of employer subsidy ranges from 30 percent to 100 percent of the premium. This variation would cause significant disparity in the level of benefits provided to LODA beneficiaries with higher incomes. Therefore, the option could be implemented to cap the amount a beneficiary would pay at 20 percent of the total premium. This is the same percentage that state employees pay for the maximum coverage options on the COVA Care plan.

Impact on costs

Employers could save approximately \$10.9 million over the next 10 years if this option were implemented (Figure 5-1). Projected benefit payments would decrease by \$0.7 million (4.3 percent) in FY 2015, and \$1.5 million (4.5 percent) by FY 2024. LODA Fund premiums for participating employers would be reduced by between 4.7 percent and 4.4 percent annually over the next 10 years. This would result in a cumulative savings of \$3.3 million for state agencies (\$3.0 million savings to the general fund). These figures assume that 50 percent of beneficiaries exceeding the threshold would elect to enroll in an alternative plan through re-employment (Table 5-4).

Projected cost savings would increase substantially if disability and pension income are included to calculate household income. In FY 2013 an estimated 22 percent (211 out of 948) surviving spouses and disabled beneficiaries had household incomes exceeding 250 percent of the federal poverty level using only earned income. Including workers' compensation and VRS disability income almost doubles the number of beneficiaries meeting the threshold, which more than doubles estimated cost savings.

FIGURE 5-1
Reducing benefits for beneficiaries with higher incomes would save \$11 million over 10 years



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 5-4
Reducing benefits for beneficiaries with incomes above threshold reduces state and local budget impacts over the next 10 years (\$1,000s)

Employer	Ten-year cumulative budget impact			
	General fund	Non-general fund	Local funds	Total
State	\$3,034	\$228	-	\$3,263
Participating localities	-	-	\$1,924	1,924
Non-participating localities	-	-	5,703	5,703
Total	\$3,034	\$228	\$7,627	\$10,890

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

Impact on beneficiaries

Reducing benefits for those with higher incomes will result in as many as 40 percent of beneficiaries paying for part of their health insurance premiums or switching to alternative coverage (Exhibit 5-1). Beneficiaries in higher cost-of-living areas are more likely to have household incomes above the threshold and therefore be impacted by this option. A payment mechanism would have to be established to collect premiums from these beneficiaries, and it may be in the best interest of beneficiaries for DOA or the employer to pay the full health insurance premium and then collect the employee portion from the beneficiary, rather than require beneficiaries to pay the health insurance carrier directly. If a beneficiary failed to make premium payments, the health insurance carrier could terminate coverage.

EXHIBIT 5-1

Option 4: Reduce benefits for beneficiaries with household income greater than 250 percent of the federal poverty level

ADVANTAGES

- **Lower costs** to LODA employers by approximately \$10.9 million over the next 10 years
- **Maintain affordable** health insurance for all LODA beneficiaries
- **Reserve full benefits** for those with lower household incomes

DISADVANTAGES

- ▶ **Increased premium costs** for 22 percent of beneficiaries with household incomes exceeding 250 percent of the federal poverty level
- ▶ **Disproportionate impact** on beneficiaries in higher cost of living areas
- ▶ **Increased administrative resources** required to track income and collect premiums

SOURCE: JLARC staff analysis.

OPTION 4

The General Assembly could consider amending the Code of Virginia to require Line of Duty Act beneficiaries to pay the active employee share of health insurance premiums or 20 percent, whichever is lower, if their household income exceeds 250 percent of the federal poverty level.

LODA could discontinue benefits for disabled public safety officers earning as much as their pre-disability salary

Benefits could be discontinued for disabled beneficiaries who earn at least as much as their pre-disability salary and have access to comparable, affordable health insurance. This would reserve benefits for those who are not able to return to their pre-disability income level while protecting access for those who are. To be eligible for LODA benefits, individuals must suffer from a disability that permanently keeps them from performing their public safety occupation, which may reduce income potential and limits access to employer-subsidized health insurance. This policy option would only impact beneficiaries who are able to earn their pre-disability income and access health insurance through another occupation. A mechanism would need to be established for disabled public safety officers to regain LODA benefits if their income or health insurance status changes.

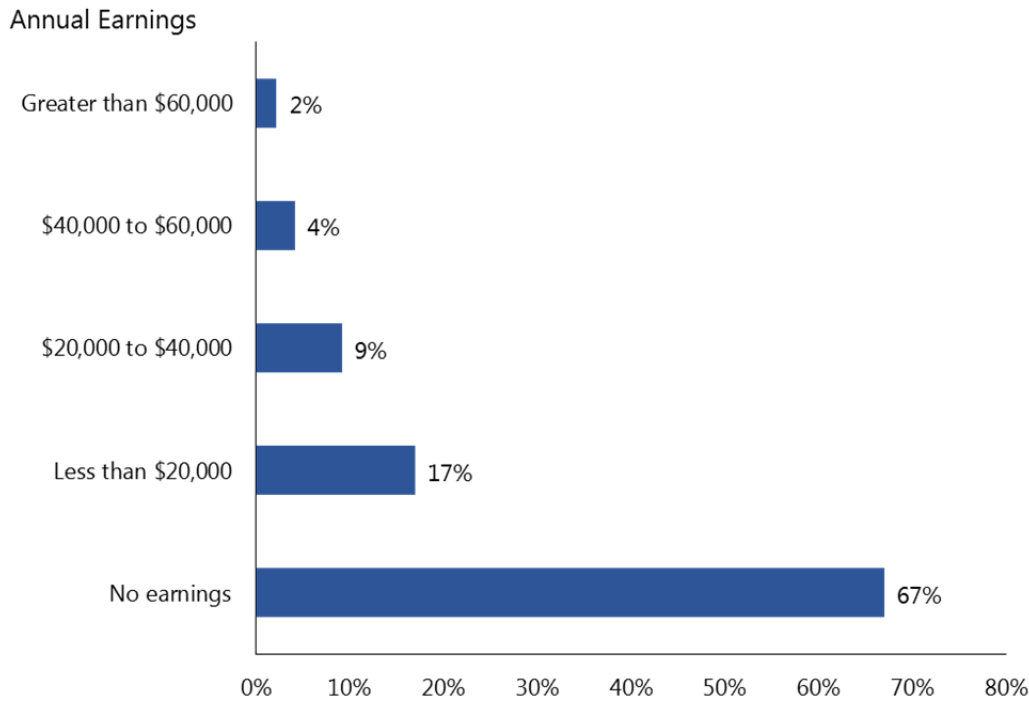
This option offers protections to beneficiaries who are re-employed by requiring alternative health insurance to be comparable and affordable. Comparability could be assessed by DHRM using the same criteria that are used for all beneficiaries. (See Chapter 3 for a full discussion of the comparability requirement.) This would likely include reviewing the cost of premiums, covered services, and required out-of-pocket expenses for the services provided by the plan.

Affordability could be assessed as part of the criteria used in assessing comparability. If a new health insurance plan charges significantly higher premiums than the beneficiary's current plan, it would not be considered comparable. Affordability could also be assessed by setting a cap on the percentage of an individual's income that can be spent on health insurance premiums. For example, there is a federal standard under the Affordable Care Act for the percentage of income that can be spent on health insurance premiums. For almost all disabled beneficiaries earning at least their pre-disability salary, the cap would be 9.5 percent of income.

Most LODA beneficiaries earn little or no income

Approximately half of all disabled LODA beneficiaries return to work at some point after becoming disabled. The vast majority of these individuals earn low wages, and at any given point in time the percentage of disabled beneficiaries who are re-employed is likely much lower. In FY 2013, approximately one-third of disabled beneficiaries were re-employed in Virginia (Figure 5-2). Of those who were re-employed, half earned less than \$20,000 a year but a few (2 percent) earned more than \$60,000 a year.

FIGURE 5-2
Few LODA beneficiaries are re-employed or earn high wages



SOURCE: JLARC staff analysis of DOA and Virginia Employment Commission data.

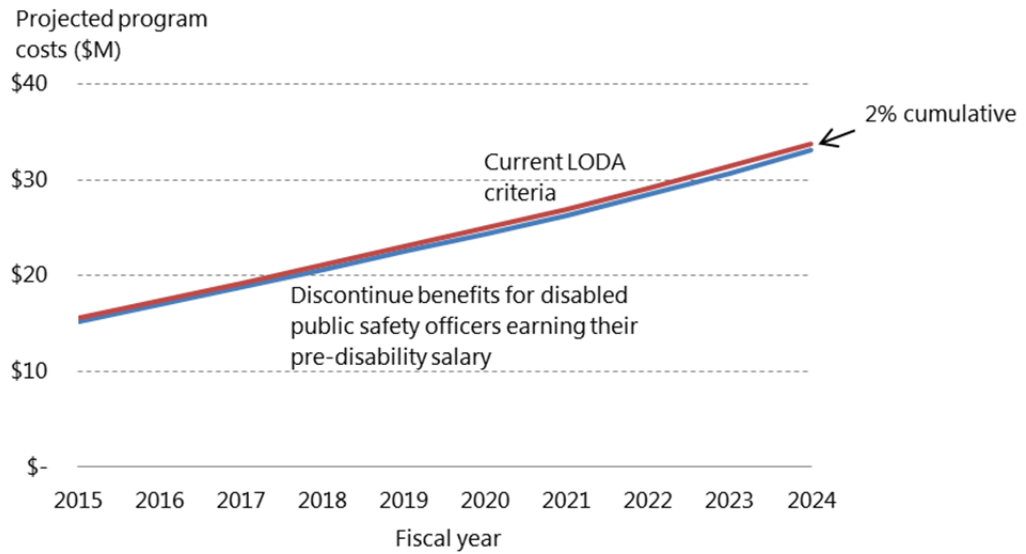
The average pre-disability salary for disabled LODA beneficiaries was just under \$60,000 when adjusting for inflation, therefore this option would only impact a small number of disabled beneficiaries who are able to earn the highest salaries.

Impact on costs

Employers could save approximately \$5.4 million over the next 10 years if this option were implemented (Figure 5-3). Projected benefit payments would decrease by \$0.4 million (2.2 percent) in FY 2015, and \$0.7 million (2.1 percent) in FY 2024. LODA Fund premiums for participating employers would be reduced by between 2.4 percent and 2.1 percent annually over the next 10 years. This would result in cumulative savings of \$1.6 million for state agencies (\$1.5 million savings to the general fund) (Table 5-5).

Projected cost savings would increase substantially if disability and pension income are included to calculate household income. In FY 2013, only 15 of 787 disabled beneficiaries earned more than their pre-disability salary. Including income from workers’ compensation and VRS disability programs increases the number of beneficiaries meeting the threshold to 58, nearly quadrupling savings.

FIGURE 5-3
Discontinuing benefits for disabled public safety officers earning their pre-disability salaries would save \$5 million over 10 years



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 5-5
Discontinuing benefits for disabled public safety officers earning their pre-disability salary reduces state and local budget impacts (\$1,000s)

Employer	10-year cumulative budget impact			
	General fund	Non-general fund	Local funds	Total
State	\$1,479	\$111	--	\$1,591
Participating localities	--	--	\$938	\$938
Non-participating localities	--	--	\$2,870	\$2,870
Total	\$1,479	\$111	\$3,808	\$5,398

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

Impact on beneficiaries

Implementing this option would maintain benefits for 98 percent of current LODA beneficiaries, but two percent of beneficiaries whose income exceeds their pre-disability salary would lose their benefits. This option is more likely to impact younger beneficiaries who tend to have lower pre-disability salaries. Less than 20 percent of disabled LODA beneficiaries are under 40 years old at the time of approval, but their pre-disability salaries on average are almost \$15,000 lower than those disabled over the age of 40 (Exhibit 5-2).

EXHIBIT 5-2

Option 5: Discontinue benefits for disabled public safety officers earning at least their pre-disability salary

ADVANTAGES

- ▶ **Lower costs** to LODA employers by approximately \$5.4 million over the next 10 years
- ▶ **Maintain free health insurance** premiums for 98 percent of LODA beneficiaries

DISADVANTAGES

- ▶ **Elimination of benefits** for 2 percent of beneficiaries with incomes greater than their pre-disability salary
- ▶ **Disproportionate impact** on younger beneficiaries with lower pre-disability salaries
- ▶ **Increased administrative resources** required to track income and assess comparability and affordability

SOURCE: JLARC staff analysis.

OPTION 5

The General Assembly could consider amending the Code of Virginia to discontinue Line of Duty Act benefits for disabled public safety officers who are earning at least as much as their pre-disability salary and have access to comparable, affordable health insurance.

LODA could provide benefits under more narrow circumstances

LODA could preserve benefits by narrowing eligibility criteria. The growing number of beneficiaries is the primary driver of growing program costs, so options that would reduce the number of eligible beneficiaries could have the largest potential impact on future costs. This could be done by implementing aspects of programs in other states, such as limiting the covered events to the most severe disabilities or to disabilities resulting directly from public safety responsibilities. The extent to which LODA's eligibility criteria should be narrowed depends on the overall purpose of the program. It is currently unclear if the program is intended to be a generous benefit reserved for the families of public safety officers who are killed or severely disabled serving the public or if it is intended to function as a supplemental benefit for all work-related deaths and disabilities. It is a difficult choice to alter the eligibility criteria or benefits provided under the program, and these decisions should be considered in the context of the broader program purpose.

LODA could reserve benefits for public safety officers with the most severe disabilities

Limiting benefits to those with the most severe disabilities would reserve benefits for those who are most affected by their injuries. The most severely disabled are less likely to return to work and therefore to have access to employer subsidized health insurance. LODA eligibility criteria currently do not address the severity of disabilities, and therefore a wide range of medical conditions are eligible for benefits. Examples of approved disabilities include impairments that limit the use of a hand, hearing loss in one ear, Post-Traumatic Stress Disorder, and quadriplegia. This option would more closely align the program with the federal Public Safety Officers' Benefits (PSOB) Programs and three of the five line of duty programs in other states that provide benefits to disabled public safety officers.

Definition of "disabled person" in the LODA statute

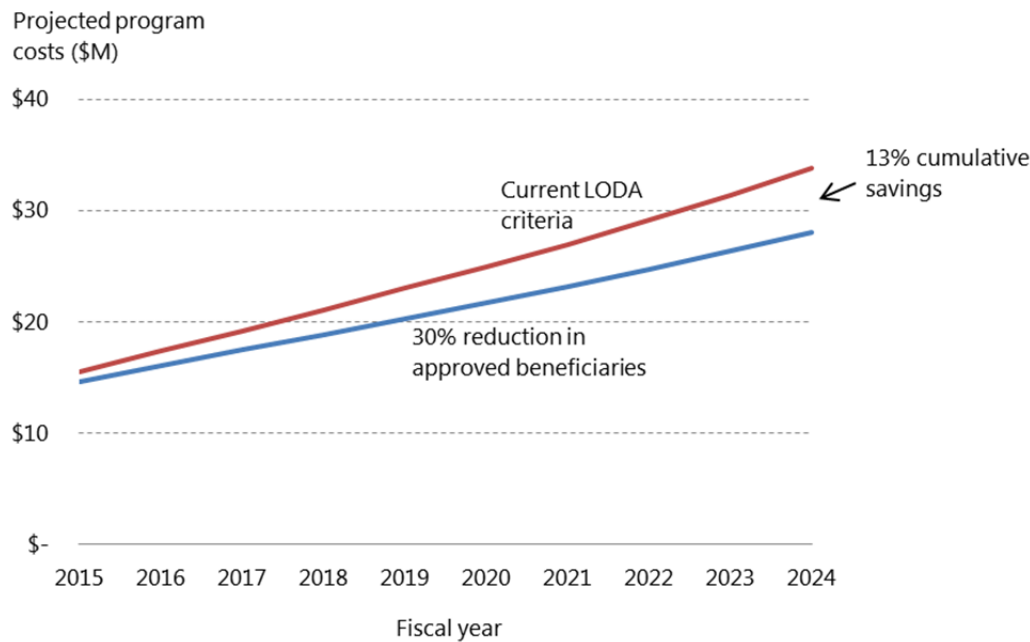
an individual who has become mentally or physically incapacitated so as to prevent the further performance of duty where such incapacity is likely to be permanent.

LODA could model its disability definition after similar programs with more narrow criteria. PSOB and Oregon restrict benefits to claimants whose disabilities prevent them from employment in any occupation. In Washington, claimants exceeding an income threshold are ineligible for benefits. Alternatively, LODA could use a "catastrophic" definition, similar to VSDP. This definition states that an individual must be either (1) unable to perform at least two of six activities of daily living, such as feeding oneself and bathing, or (2) impaired by "a severe cognitive impairment that requires substantial supervision to ensure health and safety."

Impact on costs

The impact of narrowing the eligibility criteria is difficult to estimate because it depends on the definition used. However, the projected cost savings realized by reducing newly eligible beneficiaries by a certain percentage each year provides insight into the potential impact of a new definition. If the new definition reduced eligible claims by 30 percent annually it could save employers approximately \$31.3 million over the next 10 years (Figure 5-4). Because this option would only apply to future LODA claimants, the cost savings would be realized gradually over time. Projected benefit payments would decrease by approximately \$0.9 million (6.1 percent) in FY 2015, and by as much as \$5.7 million (17 percent) by FY 2024. LODA Fund premiums for participating employers would be reduced by between 5.4 percent and 15.9 percent annually over the next 10 years. This would result in cumulative savings of \$8.5 million for state agencies (\$7.9 million savings to the general fund) (Table 5-6). The actual savings realized under this option could be higher or lower depending on the extent to which a new definition narrows the eligibility criteria.

FIGURE 5-4
Eliminating benefits for public safety officers with less severe disabilities could reduce LODA costs



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 5-6
Eliminating benefits for public safety officers with less severe disabilities reduces state and local budget impacts (\$1,000s)

Employer	Ten-year cumulative budget impact			
	General fund	Non-general fund	Local funds	Total
State	\$7,915	\$596	-	\$8,511
Participating localities	-	-	\$5,018	\$5,018
Non-participating localities	-	-	\$17,810	\$17,810
Total	\$7,915	\$596	\$22,828	\$31,339

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

NOTE: This projection assumes a 30 percent reduction in claims.

Impact on beneficiaries

Narrowing the definition of disability would result in future disabled public safety officers not receiving LODA benefits. The more narrow the definition, the more disabled individuals will not be eligible for benefits. This option would have the greatest impact on disabled public safety officers who are not eligible but cannot regain employment and lack access to health insurance through a spouse. Younger

claimants who are unable to regain employment may feel the greatest financial impact of this option because their disability wage replacement benefits are likely to be lower than those of older claimants who had higher pre-disability salaries. Younger claimants face more years until Medicare eligibility, and COBRA and other unsubsidized premiums may represent a significant financial burden in the meantime (Exhibit 5-3).

EXHIBIT 5-3

Option 6: Eliminate benefits for public safety officers with less severe disabilities

ADVANTAGES	DISADVANTAGES
<ul style="list-style-type: none"> ▶ Lower costs to LODA employers ▶ Maintain benefits for death beneficiaries and the most severely disabled ▶ Fewer administrative resources necessary to determine eligibility if a new definition results in a reduction in claims 	<ul style="list-style-type: none"> ▶ Loss of benefits for some disabled public safety officers ▶ Disproportionate impact on younger beneficiaries with lower pre-disability salaries ▶ Increase in complexity to determine the severity of disabilities

SOURCE: JLARC staff analysis.

OPTION 6

The General Assembly could consider amending the Code of Virginia to redefine “disabled person” more narrowly in the Line of Duty Act to reduce the circumstances under which public safety officers are eligible for benefits.

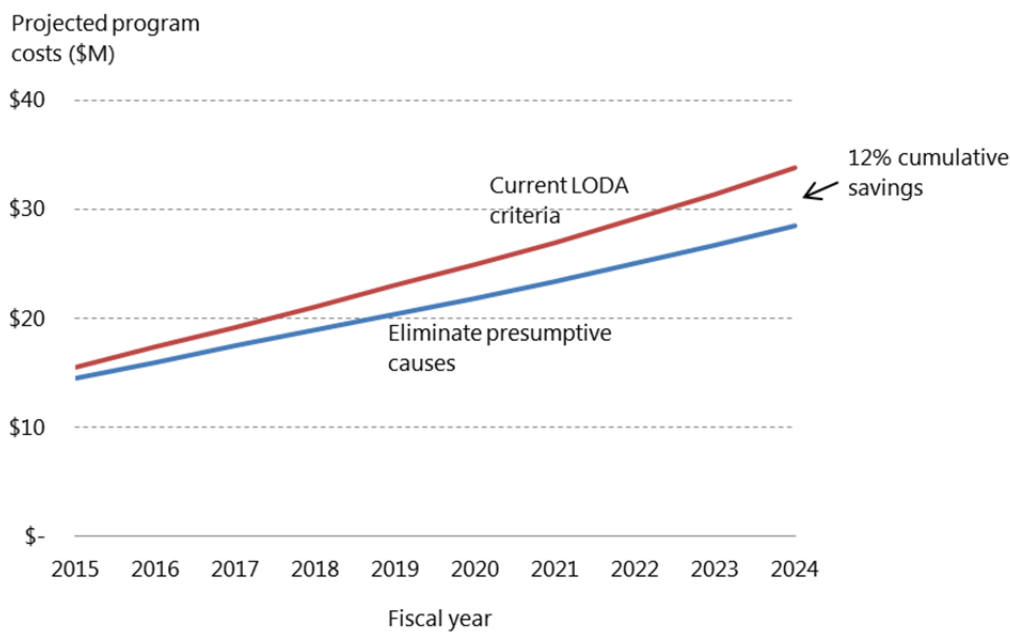
LODA could reserve benefits for public safety officers killed or disabled as a direct and proximate result of their employment

Eliminating presumptive causes would limit the deaths and disabilities covered by LODA to those resulting from direct and proximate causes. This would reserve benefits for public safety officers whose death or disability has the strongest connection with their duties. The LODA program covered only direct and proximate deaths until 1976, and this option would bring the program in line with most similar programs in other states. Of the other seven states with programs similar to LODA, Florida is the only one that allows coverage for presumptive causes for all covered employees, while Washington recognizes presumptions only for firefighters. Eliminating presumptions from the LODA eligibility criteria would, however, be inconsistent with similar programs in Virginia, such as workers’ compensation and VRS disability programs.

Impact on costs

Employers could save approximately \$29.8 million over the next 10 years if this option were implemented (Figure 5-5). Because this option would only apply to future LODA claimants, the cost savings would be realized gradually over time. Projected benefit payments would decrease by approximately \$1.0 million (6.5 percent) in FY 2015, and by as much as \$5.3 million (15.7 percent) by FY 2024. LODA Fund premiums for participating employers would be reduced by between 5.8 percent and 14.7 percent annually over the next 10 years. This results in a cumulative savings of \$8.1 million for state agencies (\$7.5 million savings to the general fund) (Table 5-7).

FIGURE 5-5
Eliminating presumptive causes would save \$30 million over 10 years



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 5-7
Eliminating presumptive causes reduces state and local budget impacts (\$1,000s)

Employer	Ten-year cumulative budget impact			
	General fund	Non-general fund	Local funds	Total
State	\$7,540	\$568	-	\$8,108
Participating localities	-	-	\$4,781	\$4,781
Non-participating localities	-	-	\$16,868	\$16,868
Total	\$7,540	\$568	\$21,648	\$29,756

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

Impact on beneficiaries

Narrowing the eligibility criteria to include only direct and proximate causes would significantly reduce the number of eligible LODA beneficiaries. Almost 30 percent of beneficiaries (108) approved between FY 2009 and FY 2013 were eligible due to a death or disability from presumptive causes. While this option would reduce costs for LODA employers, it would eliminate benefits for all presumptive cause disabilities and maintain benefits for all direct and proximate disabilities, without consideration for the severity of the disability. For example, a former firefighter with late-stage lung cancer may be unable to work and have extensive health care needs while a former police officer with a permanent back injury may find employment that offers health insurance at a job without strenuous physical requirements (Exhibit 5-4).

EXHIBIT 5-4

Option 7: Eliminate benefits for public safety officers with presumptive causes

<p style="text-align: center;">ADVANTAGES</p> <ul style="list-style-type: none"> ▶ Lower costs to LODA employers by approximately \$29.8 million over the next 10 years ▶ Maintain benefits for public safety officers killed or disabled by direct and proximate causes ▶ Decrease in complexity of eligibility determinations 	<p style="text-align: center;">DISADVANTAGES</p> <ul style="list-style-type: none"> ▶ Loss of benefits for approximately 30 percent of beneficiaries annually ▶ Loss of medical benefits for some disabled public safety officers with significant health care needs ▶ Eligibility not related to severity of disability because some direct and proximate disabilities are less severe
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SOURCE: JLARC staff analysis.

OPTION 7

The General Assembly could consider amending the Code of Virginia to eliminate from the eligibility criteria of the Line of Duty Act the presumptive causes listed in the definitions of “deceased person” and “disabled person.”

LODA could reserve benefits for public safety officers killed or disabled while performing public safety duties

Redefining “line of duty” to only include public safety duties would limit the deaths and disabilities covered by LODA to those unique to the public safety element of the covered occupations. The LODA program’s current definition of “line of duty” allows the awarding of benefits for a range of direct and proximate events that are unrelated to the inherent risks of public safety responsibilities (Chapter 3).

LODA could model a more narrow definition of “line of duty” after similar programs in other states. This could be done through excluding specific activities such as social activities, non-emergency travel to and from work, and deaths or disabilities resulting from natural causes or accidents. Deaths or disabilities resulting from disobedience to orders, clear negligence, intoxication, or deliberate self-harm may be excluded as well. Another method is to explicitly state which public safety activities are covered. This could be achieved by limiting covered events to those caused by violence from another individual, those occurring while in fresh pursuit, and those occurring in response to an emergency.

Impact on costs

The impact of narrowing the eligibility criteria is difficult to estimate because it depends on the definition used. However, the projected cost savings realized by reducing newly eligible beneficiaries by a certain percentage each year provides insight into the potential impact of a new definition. If the new definition reduced eligible claims by 30 percent annually it could save employers approximately \$31.3 million over the next 10 years (Figure 5-6). Because this option would only apply to future LODA claimants, the cost savings would be realized gradually over time. Projected benefit payments would decrease by approximately \$0.9 million (6.1 percent) in FY 2015, and by as much as \$5.7 million (17 percent) by FY 2024. LODA Fund premiums for participating employers would be reduced by between 5.4 percent and 15.9 percent annually over the next 10 years. This would result in cumulative savings of \$8.5 million for state agencies (\$7.9 million savings to the general fund) (Table 5-8). The actual savings realized under this option could be higher or lower depending on the extent to which a new definition narrows the eligibility criteria.

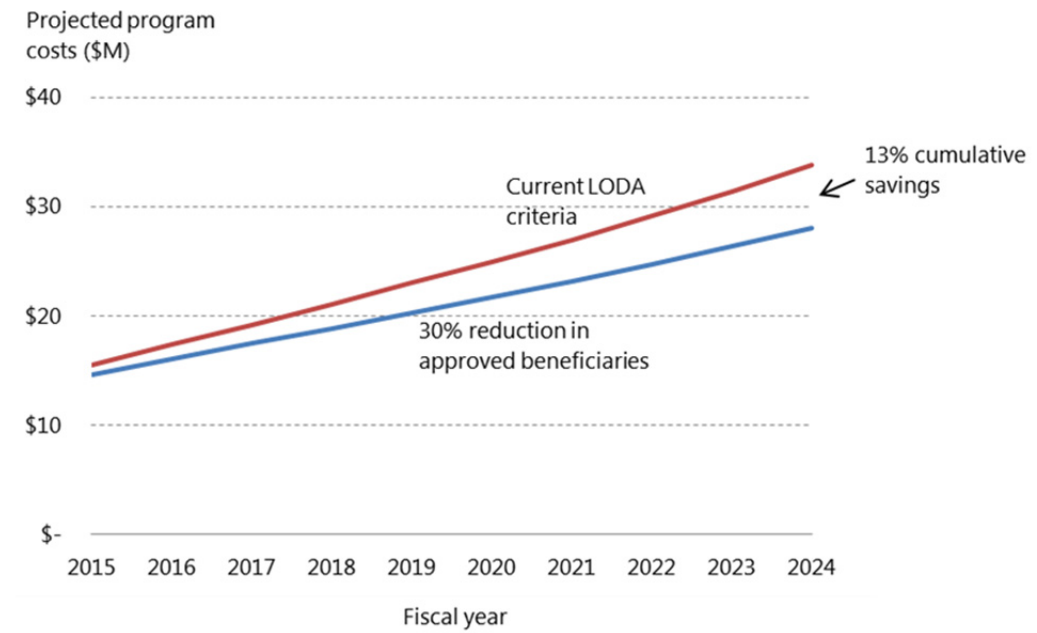
Impact on beneficiaries

Narrowing the eligibility criteria to limit the definition of “line of duty” to public safety activities would reduce the number of eligible LODA beneficiaries. While this would reduce costs for LODA employers, it would eliminate benefits for some disabled public safety officers, surviving spouses, and their families. The number of potential future beneficiaries impacted by this option is difficult to estimate as it would depend on the definition used (Exhibit 5-5).

Definition of “line of duty” in the LODA statute

Any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

FIGURE 5-6
Redefining line of duty to include only public safety activities could reduce LODA costs



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 5-8
Redefining line of duty to include only public safety activities reduces state and local budget impacts (\$1,000s)

Employer	Ten-year cumulative budget impact			
	General fund	Non-general fund	Local funds	Total
State	\$7,915	\$596	-	\$8,511
Participating localities	-	-	\$5,018	\$5,018
Non-participating localities	-	-	\$17,810	\$17,810
Total	\$7,915	\$596	\$22,828	\$31,339

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

NOTE: This projection assumes a 30 percent reduction in claims.

EXHIBIT 5-5

Option 8: Redefining line of duty to include only public safety activities

ADVANTAGES	DISADVANTAGES
<ul style="list-style-type: none"> ▶ Lower costs to LODA employers ▶ Maintain benefits for deaths and disabilities related to public safety duties ▶ Fewer administrative resources necessary to investigate and determine eligibility due to fewer claims 	<ul style="list-style-type: none"> ▶ Loss of medical benefits for some disabled public safety officers ▶ Eligibility not related to severity of disability because some ineligible disabilities could be more severe than those occurring during public safety activities

SOURCE: JLARC staff analysis.

OPTION 8

The General Assembly could consider amending the Code of Virginia to redefine “line of duty” to include only deaths and disabilities occurring as a direct and proximate result of public safety responsibilities.

LODA could eliminate benefits at the age of Medicare eligibility

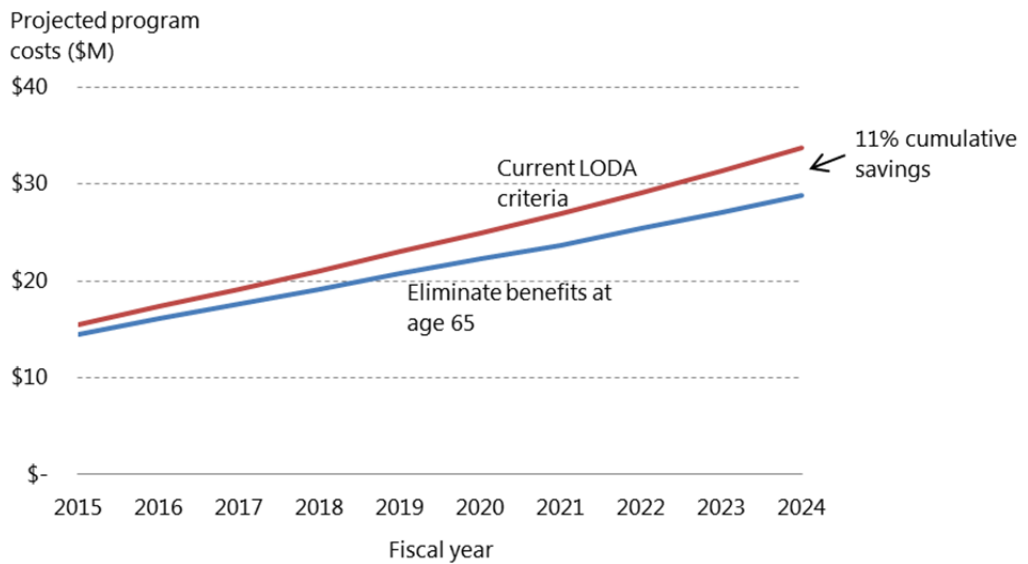
Eliminating benefits at age 65 would maintain full benefits for all beneficiaries until they are eligible for Medicare. LODA currently pays for Medicare supplement premiums. These premiums are less expensive than full health insurance plans, making them more affordable if beneficiaries have to pay for them. All beneficiaries would maintain access to health insurance because anyone over 65 would be eligible for Medicare.

This option would bring the program in line with the majority of programs in other states. Four states reduce or eliminate benefits upon Medicare eligibility. Minnesota discontinues benefits for all beneficiaries when the former employee turns 65, or would have turned 65 if deceased.

Impact on costs

Employers could save approximately \$26.9 million over the next 10 years if this option were implemented (Figure 5-7). The cost savings realized through this option would increase over the next 10 years as beneficiaries age. Projected benefit payments would decrease by approximately \$1.0 million (6.5 percent) in FY 2015, and by as much as \$5.0 million (14.9 percent) by FY 2024. Premiums for participating employers would be reduced by between 7.9 percent and 15.8 percent annually over the next 10 years. This would result in cumulative savings of \$9.2 million for state agencies (\$8.6 million savings to the general fund) (Table 5-9).

FIGURE 5-7
Eliminating benefits for beneficiaries over the age of 65 would save \$27 million over 10 years



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

TABLE 5-9
Eliminating benefits for beneficiaries over the age of 65 reduces state and local budget impacts (\$1,000s)

Employer	Ten-year cumulative budget impact			
	General fund	Non-general fund	Local funds	Total
State	\$8,561	\$644	--	\$9,205
Participating localities	--	--	\$5,428	\$5,428
Non-participating localities	--	--	\$12,265	\$12,265
Total	\$8,561	\$644	\$17,693	\$26,898

SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

Impact on beneficiaries

Narrowing the eligibility criteria to include only beneficiaries under the age of 65 would reduce the number of eligible LODA beneficiaries. Six percent of active beneficiaries, including eligible spouses, were over the age of 65 in FY 2012, and this number is projected to increase as beneficiaries age. While this option would reduce costs for LODA employers, it would transfer the cost of Medicare supplement premiums to older beneficiaries. These beneficiaries are far less likely to be employed than younger beneficiaries. While they would share the same Medicare costs as non-LODA government retirees, they may be doing so from a relatively weaker financial position. Disability pension income can be lower than the standard retirement pen-

sion depending on the individual's years of service, and these retirees would have collected fewer years of full compensation prior to their disability than public safety officers who work until their normal service retirement (Exhibit 5-6).

EXHIBIT 5-6

Option 9: Eliminate benefits for beneficiaries over the age of 65

ADVANTAGES

- ▶ **Lower costs** to LODA employers by approximately \$26.9 million over the next 10 years
- ▶ **Maintain free health insurance** for all beneficiaries without Medicare access

DISADVANTAGES

- ▶ **Loss of medical benefits** for at least 6 percent of beneficiaries age 65 and over
- ▶ **Increased premiums costs** for older beneficiaries with lower incomes

SOURCE: JLARC staff analysis.

OPTION 9

The General Assembly could consider amending the Code of Virginia to discontinue Line of Duty Act health insurance benefits when beneficiaries become eligible for Medicare at age 65.

Preventing deaths and disabilities would provide the greatest benefit to the LODA population

Another means of reducing the number of public safety officers eligible for LODA benefits is preventing the deaths and disabilities that are eligible under the program. This would have a greater impact on potential beneficiaries while also reducing program costs. LODA provides benefits to assist the families of public safety officers during times of tragedy and hardship. Implementing measures to keep public safety officers alive, healthy, and performing their essential functions could reduce the need for LODA benefits.

Establishing a clearinghouse to collect and disseminate lessons learned from incidents resulting in line of duty deaths and disabilities could help share best practices for prevention. Professional associations representing public safety officers indicated that after-action reports and internal investigations are almost always conducted after a line of duty death or disability. Agencies use these reports to implement procedures to avoid future incidents. For example, following the death of a Prince William County firefighter in a house fire in 2007, county officials brought together a group

of fire experts from around the state to review all aspects of the incident. The investigative report contained more than 200 recommendations aimed at increasing firefighter safety when responding to calls. Prince William County published this report so that other fire departments could learn from this event, but both police and fire professional associations indicated that these reports are not typically shared. While not all after-action reports are likely to be as comprehensive as the Prince William County example, sharing any lessons learned could help other agencies implement best practices to prevent future line of duty deaths and disabilities.

Implementing physical fitness standards for public safety personnel could similarly reduce the risk of presumptive cause deaths and disabilities. Occupational diseases such as hypertension, heart disease, and lung cancer are presumed to be caused by the individual's public safety occupation. Healthy lifestyle habits could help mitigate the risk of some of these diseases. The City of Charlottesville fire department received a federal grant in 2007 to implement a comprehensive wellness and fitness program for its members. The goal of the program is to increase firefighters' wellness and reduce the rates of disabilities and premature deaths.

Developing a clearinghouse for after-action reports and implementing health and wellness programs would require additional administrative funding and could raise legal concerns for agencies. Additionally, assessing the effectiveness of best practices in prevention was out of the scope of this study and therefore it is unknown to what extent effective practices are already being implemented. The Department of Fire Programs and the Department of Criminal Justice Services have expertise in these areas and knowledge of current practices across the state. These agencies would be well positioned to study this issue and develop mechanisms to share and implement best practices in preventing line of duty deaths and disabilities.

OPTION 10

The General Assembly could consider amending the Code of Virginia to require the Department of Fire Programs and the Department of Criminal Justice Services to develop and disseminate best practices in line of duty death and disability prevention and health and wellness programs.

6 Pre-Funding Future LODA Benefits

SUMMARY Rising program costs will lead to significant growth in the unfunded liability for the LODA Fund under the current “pay-as-you-go” funding policy. Reducing this liability by pre-funding future benefits would require a substantial budgetary investment in the short term, but would take advantage of asset growth to offset future costs. Adopting a policy to fully pre-fund benefits for all current and future recipients within 10 years is projected to triple premiums for employers who participate in the LODA Fund, compared to the pay-as-you-go policy. Pre-funding benefits to a lesser extent or more slowly would still take advantage of asset growth while being sensitive to budget constraints. The state and participating localities could use an alternative liability projection model to prefund benefits only for current beneficiaries, which would reduce unfunded liabilities with a smaller budget impact.

Providing sufficient funding for the LODA program ensures that benefits are available for current and future eligible beneficiaries. The current pay-as-you-go funding policy creates more uncertainty for future beneficiaries because no funds have been set aside on their behalf, and the state and local governments must appropriate new funding each year. VRS supports pre-funding future benefit payments as a best practice to cover anticipated liabilities. Pre-funding LODA benefits would require a sizable up-front investment, but implementing changes designed to reduce future program costs could make pre-funding benefits more affordable (see Chapters 4 and 5).

Liability projected to grow by 75 percent within 10 years under pay-as-you-go funding policy

The actuarially accrued liability for employers that participate in the LODA Fund is projected to be \$209 million in FY 2015, growing to \$364 million by FY 2024. This liability represents benefit payments that are projected to be paid to current and future beneficiaries. The unfunded actuarially accrued liability is the difference between the total liability and the assets currently available to pay for future benefits. This figure represents the cumulative future budget impact to the state and localities of paying LODA benefits. Conversely, it also represents the projected shortfall for the program if no additional funding is provided. Because the LODA Fund collects only as much in premiums as is needed to pay for benefits in the current year, assets do not accumulate and the unfunded liability is approximately equal to the total liability at any given point in time (Figure 6-1).

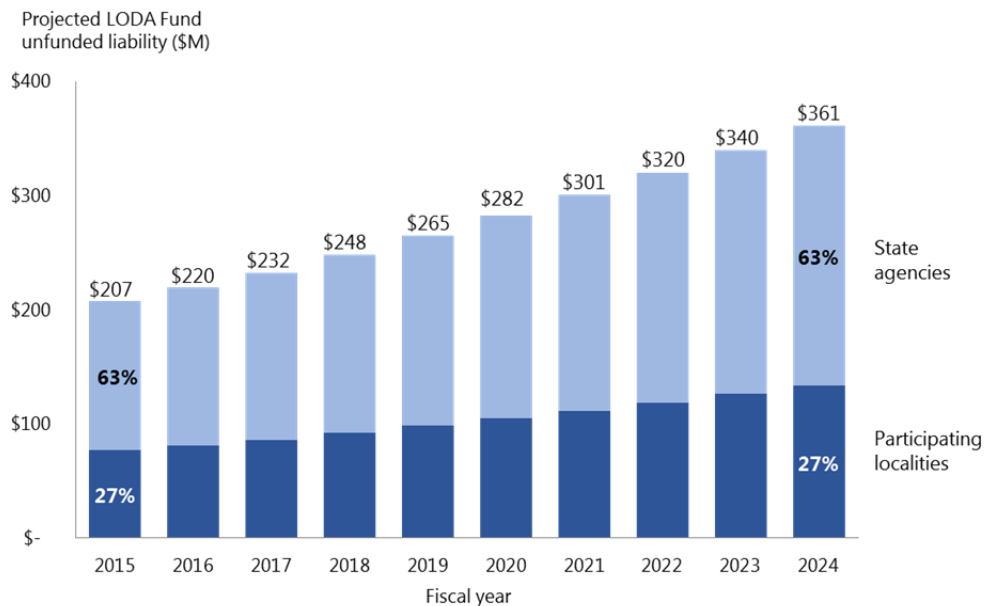
Actuarially accrued liability

The present value of all projected future benefit payments to current beneficiaries and benefits accrued by active employees.

Unfunded actuarially accrued liability

The difference between the actuarially accrued liability and the assets currently available to pay for those benefits.

FIGURE 6-1
Unfunded liability for LODA Fund projected to increase by 75 percent over 10 years under pay-as-you-go policy



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

A concern with the growing unfunded liability is its potential impact on state and local bond ratings. Accounting standards require that the unfunded liability be reported as an Other Post Employment Benefit (OPEB) on annual financial statements. Under the current standards only the state and those localities that are individually self-insured report a liability, and localities that participate in the LODA Fund or group self-insurance pools are not required to report their portion of the pool's liability. Updated accounting standards are expected to go into effect in FY 2018, and one proposed change would require any government entity that participates in a group self-insurance pool to report its portion of the group's liability on its financial statements. This change would result in the state and all localities having to report their portion of the unfunded liability for LODA benefits on their financial statements, potentially impacting bond ratings and the interest rate at which they can borrow money. One local administrator indicated that his locality fully funds benefits each year to avoid any adverse impacts on their bond rating.

Pre-funding benefits would increase premiums but reduce unfunded liabilities

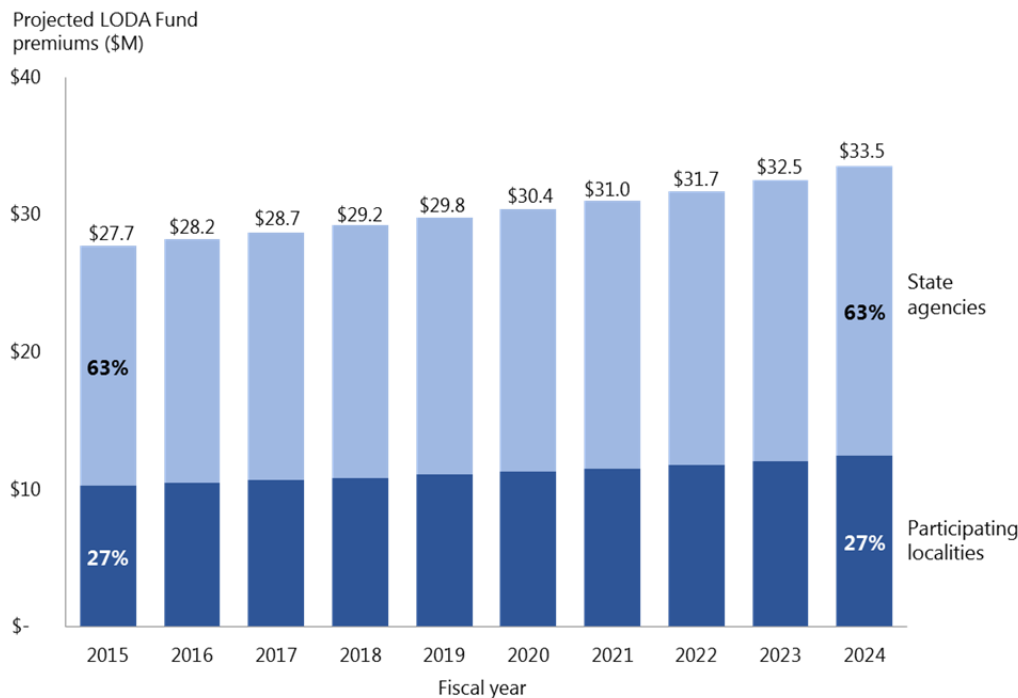
Establishing a funding policy to build enough assets in 10 years to fully pre-fund program liabilities would substantially increase LODA Fund premiums but would produce long-term cost savings. Assets invested would earn interest to offset the cost of future benefit payments, reducing LODA Fund premiums over time. Accumulat-

ing assets would also help absorb the financial impact of unexpected increases in future costs that could occur due to a catastrophic event resulting in an influx in beneficiaries or higher than expected health care inflation. Alternatives exist to partially pre-fund benefits with a reduced budget impact while still taking advantage of asset growth.

Fully pre-funding benefits would almost triple LODA Fund premiums

Fully pre-funding benefits within 10 years for state agencies and localities that participate in the LODA Fund would cost a cumulative total of approximately \$300 million. Of that amount, state agencies would assume \$190 million with a net cumulative impact to the general fund of \$109 million compared to the current policy. Annual premiums would be approximately \$27.7 million in FY 2015, increasing to \$33.5 million in FY 2024 (Figure 6-2).

FIGURE 6-2
Premiums to achieve fully pre-funded status would exceed \$27 million annually

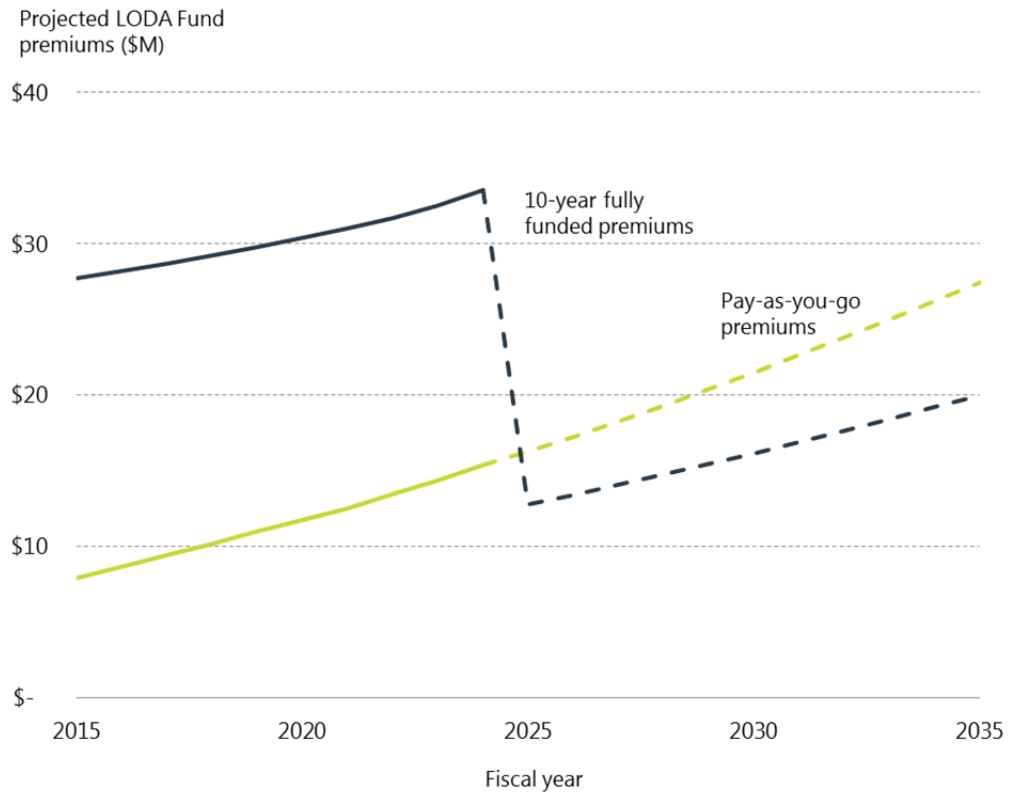


SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

Premiums required to fully pre-fund benefits within 10 years would be almost three times the cumulative premiums projected to be paid under the current pay-as-you-go funding policy. This significant difference is due largely to the amount needed to eliminate the unfunded liability that has been accruing since FY 2001. Once past liabilities are fully funded at the end of 10 years, the premiums needed to maintain fully

funded status would be lower and savings would be realized. Beginning in FY 2025, contributions required to maintain full funding are projected to be less than the premiums on a pay-as-you-go basis (Figure 6-3). Due to the high premiums required in the next 10 years to eliminate the unfunded liability, participating employers would not begin to realize cumulative budget savings for approximately 35 years.

FIGURE 6-3
Fully pre-funding benefits would reduce future premiums beginning in 2025

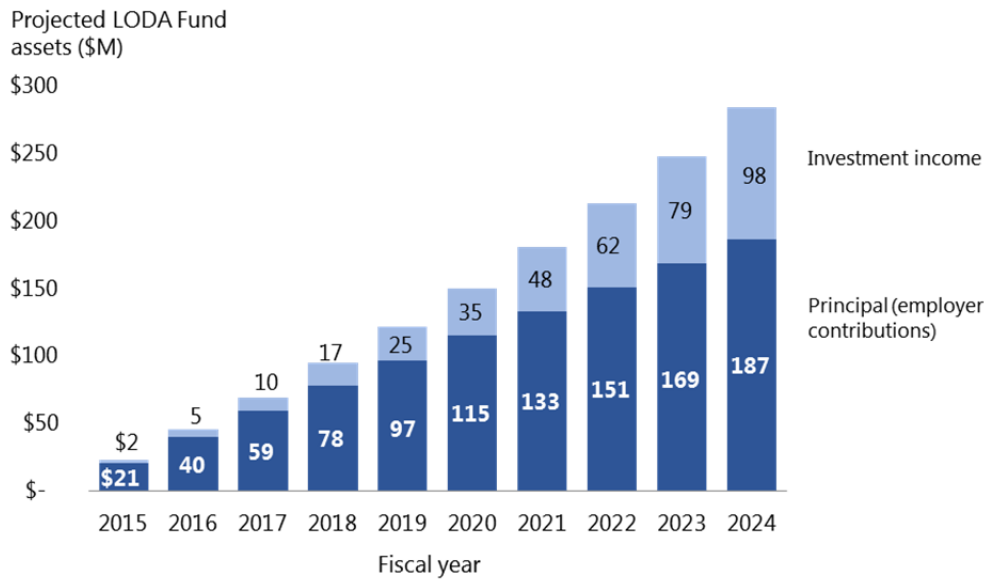


SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

Pre-funding benefits accumulates assets to offset future benefit payments

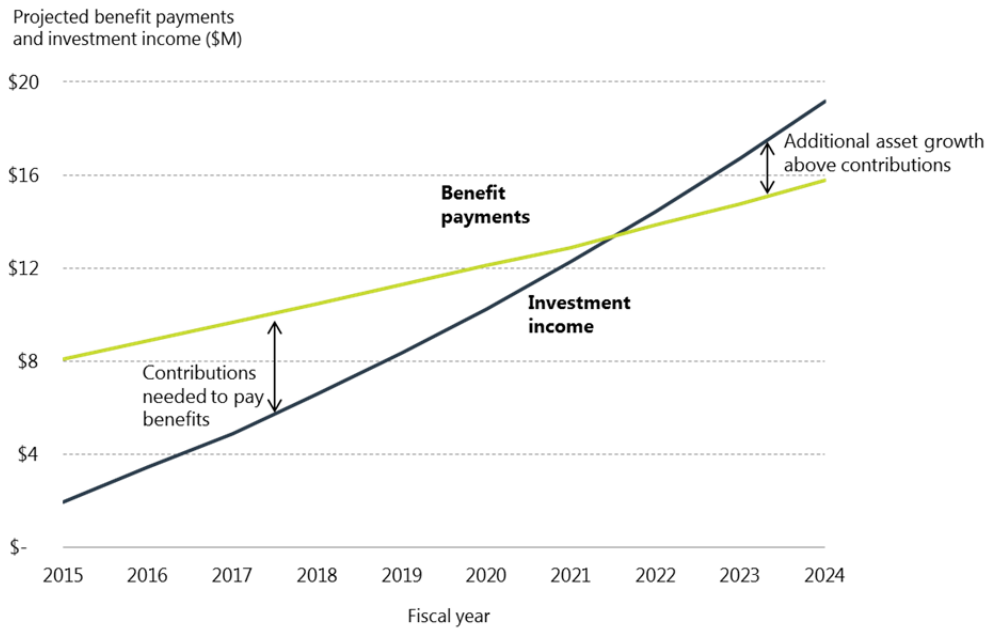
Pre-funding benefits would reduce the LODA Fund’s liability by increasing the assets available to pay for future benefits. The total liability will be lower under any funding policy that pre-funds benefits because accounting standards allow the use of a higher discount rate when calculating the present value of future benefit payments. Additionally, assets will accumulate and generate investment income, increasing total assets available to pay future benefits more quickly. By FY 2024, investment income would account for nearly one-third of the assets maintained in the LODA Fund, if benefits were fully pre-funded (Figure 6-4). The projected amount earned in investment income would exceed the amount paid out in benefits by FY 2022 (Figure 6-5).

FIGURE 6-4
Pre-funding benefits generates additional LODA Fund assets through investment income



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.
 NOTE: Investment income based on an assumed 7% rate of return.

FIGURE 6-5
Fully pre-funded premiums generate investment income to pay future benefits



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.
 NOTE: Investment income based on an assumed 7% rate of return.

Partial pre-funding strategies could be used to mitigate upfront budgetary impact

Current policy – OPEB model

Projects future benefit payments to current beneficiaries and active employees *who become disabled at any point during their career*. Similar to the way pension benefits are projected.

Alternative policy – Workers' compensation model

Projects future benefit payments to current beneficiaries and active employees *who become disabled in the coming year*. Similar to the way that workers' compensation benefits are projected.

The budget impact of fully funding benefits within the next 10 years would be substantial. Rather than aiming to fully pre-fund benefits, state and local governments could adopt alternative funding policies that would pre-fund benefits at a lower level or over a longer period of time. These options would reduce the initial budgetary impact while still taking advantage of asset growth.

Funding policies can be developed using different targeted funding levels and different time horizons over which those targets can be reached. For example, establishing a goal of funding 80 percent of the liability over the next 20 years would take advantage of asset growth, investment income, and a higher discount rate while dampening the immediate budget impact to participating employers. Establishing a goal of funding 60 percent of the liability over the next 30 years would reduce the budget impact even further.

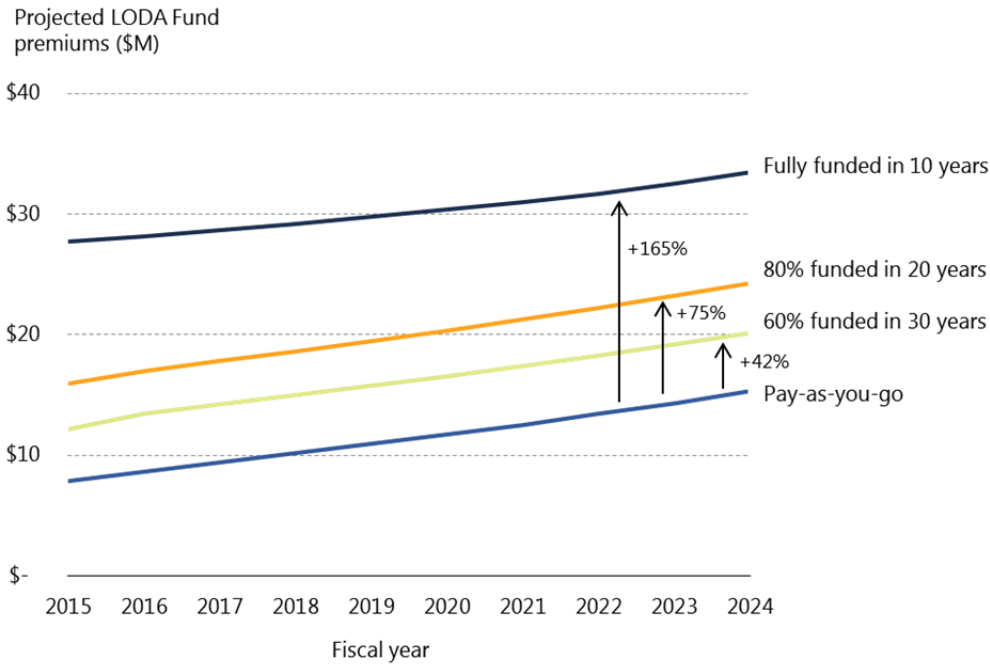
Impact on LODA Fund premiums

Alternative pre-funding targets could be set to have a lower budgetary impact than fully funding benefits over 10 years, but any pre-funding alternative would still require premiums that are higher than under the current policy over the projection period (Figure 6-6). Funding 80 percent of the LODA Fund liability over 20 years would result in premiums of approximately \$200 million cumulatively over 10 years, or 75 percent more than premiums under the current policy. Funding 60 percent of the LODA Fund liability over 30 years would have a smaller budget impact, resulting in cumulative premiums of approximately \$162 million over 10 years, or 42 percent more than those under the current policy.

Impact on unfunded liability

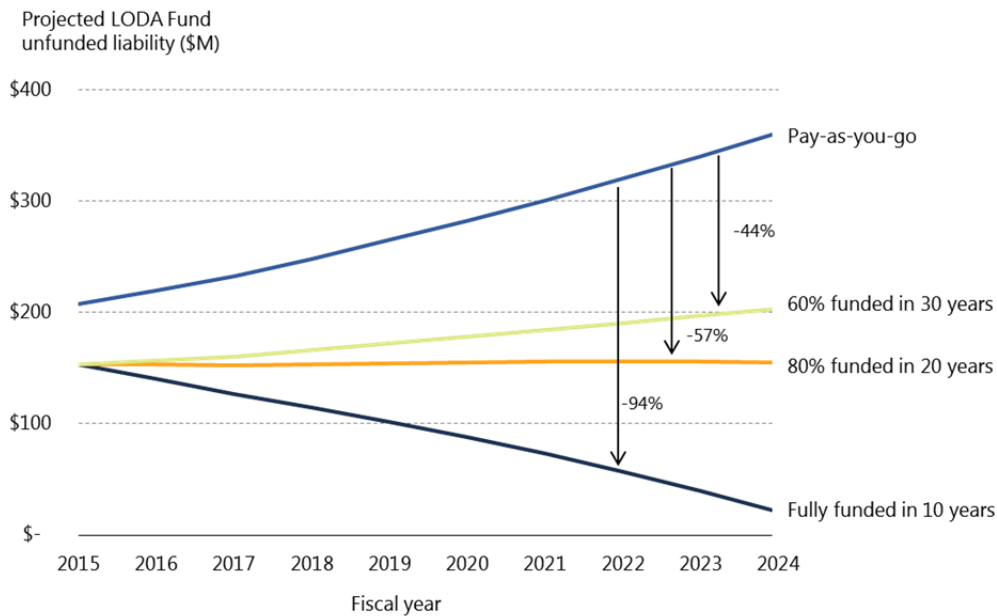
Alternative pre-funding approaches would reduce the liability more slowly than fully pre-funding benefits over 10 years because the lower premiums would not generate as much investment income to offset benefit payments, leading to slower growth in LODA Fund assets (Figure 6-7). Still, any pre-funding approach would result in building assets that generate investment income, unlike the current pay-as-you-go policy. Funding 80 percent of the LODA Fund liability over 20 years would result in an unfunded liability that is 57 percent lower than the current policy by FY 2024. Funding 60 percent of the LODA Fund liability over 30 years would produce fewer assets, resulting in an unfunded liability that is 44 percent lower than the current policy by FY 2024.

FIGURE 6-6
Pre-funding benefits would significantly increase LODA Fund premiums compared to current policy



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

FIGURE 6-7
Pre-funding benefits would reduce unfunded liabilities in the LODA Fund



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

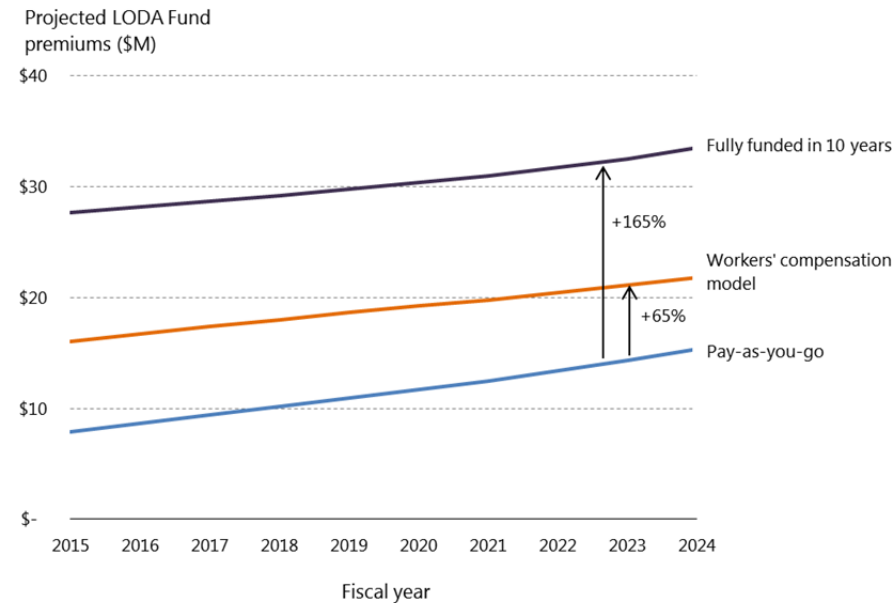
Alternative liability projection model would pre-fund benefits with a lower budget impact

The local group self-insurance pools use a different actuarial model to pre-fund LODA benefits. The LODA Fund uses a model that projects payments to current beneficiaries as well as to active employees who are expected to become eligible at a future date due to death or disability. In contrast, the group self-insurance pools use a model that projects payments only for individuals who are current beneficiaries and those projected to become eligible in the current year. This latter method results in annual premiums that fully fund benefits for current beneficiaries but do not pre-fund benefits for future beneficiaries beyond the next fiscal year.

This alternative model requires a lower annual contribution from participating employers. If this policy were implemented for new beneficiaries starting in FY 2015, the premiums required to fund benefits for new beneficiaries would be \$9.2 million in FY 2015 and would increase by five percent annually to \$14.5 million in FY 2024. However, this contribution would not go towards eliminating the \$130 million unfunded liability for beneficiaries who were already receiving benefits as of the end of FY 2014, and whose benefits were not fully pre-funded (Figures 6-8 and 6-9). This unfunded liability, and the benefit payments for these beneficiaries, would need to be addressed through another mechanism.

FIGURE 6-8

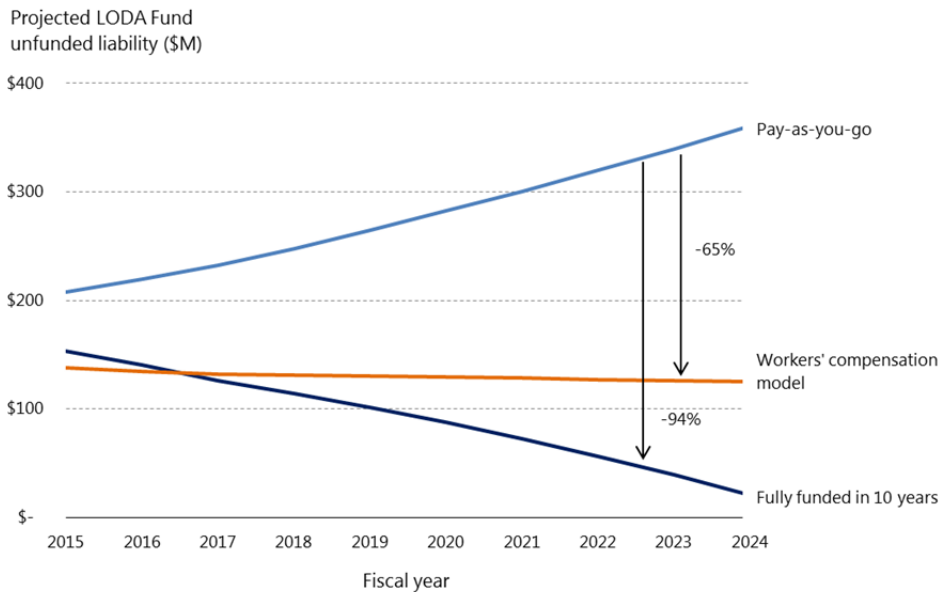
Alternative projection model would increase LODA Fund premiums compared to current policy, but to lesser degree than fully-funded policy



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.

NOTE: Premiums are the sum of benefit payments to current beneficiaries and premiums to pre-fund benefits of approved claims each year.

FIGURE 6-9
Alternative projection model would lower LODA Fund liability



SOURCE: JLARC staff analysis of Cavanaugh Macdonald Consulting actuarial projection.
 NOTE: Unfunded liability for the workers' compensation model is the sum of unfunded liabilities for current beneficiaries and beneficiaries approved in each year.

Either actuarial method would be appropriate for LODA benefits. Health insurance benefits are considered post-employment benefits that lend themselves to the current valuation model, but the deaths and disabilities covered by LODA must be work-related and therefore are closely aligned with workers' compensation, which uses the alternative model. The current model is a more conservative approach, in that benefits for active employees are pre-funded over the course of their careers. The alternative model still "fully pre-funds" benefits but for a subset of potentially eligible employees. One potential challenge with the workers' compensation model is the difficulty in predicting the lifetime cost of health insurance benefits at the time of death or disability. If health insurance premiums grow more quickly than anticipated by the actuarial model, the premiums collected may not be sufficient to pay for future benefits, resulting in additional unfunded liabilities.

Pre-funding benefits would increase premiums to a level that localities may not have anticipated when they opted to participate in the LODA Fund. Consideration may need to be given to allowing participating localities to opt out of the LODA Fund if this funding policy is implemented. The changes in premiums and unfunded liability would differ from those presented in this chapter if certain localities were to opt out, as the figures shown assume that all participating employers would remain in the LODA Fund.

OPTION 11

The General Assembly could consider establishing a policy to pre-fund benefits for employers that participate in the LODA Fund.

Appendix A: Study Mandate

HOUSE JOINT RESOLUTION NO. 103

Directing the Joint Legislative Audit and Review Commission to study Virginia's Line of Duty Act.

Agreed to by the House of Delegates, March 7, 2014

Agreed to by the Senate, March 7, 2014

WHEREAS, Virginia's Line of Duty Act, initially enacted to provide a one-time death benefit payment, has undergone significant expansion in the last 18 years, in terms of both the type and amount of benefits that are provided and the persons who are eligible to receive those benefits; and

WHEREAS, the total cost of fully funding these benefits has also escalated dramatically as a result of the expansion in the type of, amount of, and eligible recipients of these benefits; and

WHEREAS, the recipients of benefits under Virginia's Line of Duty Act may also receive benefits from other state and federal programs, including pension payments, disability payments under their pension plan, undergraduate tuition waiver benefits, workers' compensation wage replacement, medical, burial, death, disability, and educational benefits under the federal Public Safety Officers' Benefits Act, as well as additional assistance from numerous other public and private programs and foundations; and

WHEREAS, while some other states' benefit programs require the coordination of applicable federal and state benefits, Virginia's Line of Duty Act has no similar requirements; and

WHEREAS, after a year of study, the Line of Duty Act Working Group in December 2012 concluded that "very real financial constraints threaten the sustainability of Line of Duty Act benefits" but made no recommendations, noting that "further deliberation is needed prior to implementation of any reforms"; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and Review Commission be directed to study Virginia's Line of Duty Act. The Joint Legislative Audit and Review Commission shall study the following items, but not be limited to: the current implementation of the Act, the current and projected future costs of benefits awarded thereunder, and the advisability of coordinating those benefits with additional benefits paid under other state and federal programs.

In conducting its study, the Joint Legislative Audit and Review Commission shall (i) examine how claims for benefits under Virginia's Line of Duty Act are being administered and how eligibility is determined, and whether all provisions of the law are being enforced and complied with so that predictable results in accordance with the law are assured; (ii) determine whether the current appeal process provided under Virginia's Line of Duty Act protects the rights of applicants, beneficiaries, and employers; (iii) determine the current and projected costs of fully funding all benefits payable under Virginia's Line of Duty Act for the next 10 years and project the premiums that will need to be charged in each of the next 10 years to employers participating in the State Fund to ensure the full funding of benefits covered thereby; (iv) review other programs that provide benefits similar to

those available under Virginia's Line of Duty Act, including other states' programs; compare how those programs are administered and funded and the amount, type, and cost of benefits provided thereunder; determine whether and how those programs provide for the coordination of benefits available; and assess the value and feasibility of adopting those program structures and practices in Virginia; (v) review other benefit programs within Virginia to determine if aspects of those could be implemented under Virginia's Line of Duty Act to make benefit administration under the Act more efficient; and (vi) make recommendations on these issues as appropriate.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Department of Accounts and State Comptroller. All agencies of the Commonwealth and local governments, including public safety stakeholder groups, shall provide assistance to the Commission for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings for the first year by November 30, 2014, and for the second year by November 30, 2015, and the Chairman of the Joint Legislative Audit and Review Commission shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether the Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Appendix B: Research Activities and Methods

Key research activities performed by JLARC staff for this study included

- structured interviews with staff from DOA, staff from other Virginia agencies and federal agencies that administer work-related death and disability benefit programs, stakeholder groups representing public safety officers, stakeholder groups representing employers, and staff from agencies in other states that have programs similar to LODA;
- quantitative analysis of data on LODA claims, financial information on LODA program benefits, work-related death and disability benefits provided by other Virginia agencies and federal agencies, and wage data provided by the Virginia Employment Commission (VEC);
- oversight of an actuarial projection for the statewide LODA program;
- review of case files at DOA;
- survey of the Virginia Association of Counties Risk Pool (VACoRP), Virginia Municipal League Insurance Program (VMLIP), and non-participating localities that administer program benefits for LODA; and
- review of documents on work-related death and disability programs in Virginia and other states.

Structured interviews

Interviews were conducted with the Comptroller and LODA program staff at DOA and the Office of the Attorney General to collect information on the eligibility determination process, the administration of program benefits, the appeals process, and suggestions for improving the LODA program. JLARC staff also conducted interviews with staff from VSP to obtain additional information on the investigation process and suggestions for improving this aspect of the LODA program.

Structured interviews were also held with staff from other Virginia and federal agencies that provide benefits for work-related deaths and disabilities. These agencies included VRS, VWC, the Department for Aging and Rehabilitative Services, and the US Department of Justice (DOJ). Interviews with these staff focused on the eligibility criteria for these programs, including the types of occupations covered and the types of deaths and disabilities covered, as well as the benefits provided and the benefit restrictions. Staff from DHRM were also interviewed to obtain information on state and local employee health insurance benefits.

Structured interviews were held with the following stakeholder groups that represent public safety officers to obtain their observations on strengths and weaknesses of the LODA program, as well as suggestions for improvements:

- Virginia Association of Chiefs of Police,
- Virginia Association of Government EMS Administrators,
- Virginia Association of Volunteer Rescue Squads,
- Virginia Fire Chiefs Association,
- Virginia Fire Prevention Association,

- Virginia Fraternal Order of Police,
- Virginia Professional Fire Fighters,
- Virginia Sheriffs' Association,
- Virginia State Police Association, and
- International Association of Arson Investigators (Virginia Chapter).

JLARC staff also conducted structured interviews with localities, employer stakeholder groups, and group self-insurance pool administrators to obtain their observations about the strengths and weaknesses of the LODA program, as well as suggestions for program improvements. These groups included:

- Chesterfield County,
- City of Williamsburg,
- Fairfax County,
- Loudoun County,
- Virginia Municipal League,
- VMLIP,
- Virginia Association of Counties, and
- VACoRP.

Structured interviews with agency staff from seven states that have a program similar to the LODA program were also held to determine how those programs are designed and administered. These interviews focused on the design and implementation of the program including covered populations, covered events, benefits provided, eligibility determination process, and funding policies. These interviews included program staff from the following states:

- Delaware,
- Florida,
- Illinois,
- Minnesota,
- Oregon,
- Texas, and
- Washington.

Quantitative analysis

JLARC staff collected and analyzed data from a variety of federal, state, local, and non-government sources to conduct this study. An important data source was information on claims and benefit payments maintained by DOA. JLARC obtained all of the claims data available at DOA, which were largely claims submitted during or after FY 2001. Additional cost data was collected from non-participating employers because DOA currently only maintains benefit payment information for participating localities. Data on other benefits received by LODA beneficiaries was collected from VRS,

VWC, and DOJ. Data on the cost of health care was collected from DHRM, and data on wages earned by LODA beneficiaries was collected from VEC. This data was used to conduct five primary analyses for the study.

Cost Analysis

JLARC staff used data collected from DOA, VRS, and non-participating localities to determine the cost of providing LODA benefits statewide and analyze the historical cost drivers of the LODA program. This included identifying the benefit payments to each beneficiary in FY 2013 for both the participating and non-participating populations, calculating the number of claims approved and denied each year, and segregating these claims and costs by employer, covered occupation, and covered event (Table B-1).

TABLE B-1
Data used in analysis of LODA costs

Data source	Description of data	Analysis performed
DOA	Claim and investigation data, FY 2001–FY 2013	Claims approved, denied, and active beneficiaries by year
	Benefit payments, FY 2012 and FY 2013	Cost of benefits in FY 2013 for participating employers Actuarial projection
Non-participating localities and group self-insurance pools	Benefit payments, FY 2013	Cost of benefits in FY 2013 for non-participating employers
	Covered employees and volunteers by employer, FY 2013	Actuarial projection
VRS	Covered employees and volunteers by employer, FY 2013	Actuarial projection

SOURCE: JLARC staff analysis.

JLARC provided this data to Cavanaugh Macdonald Consulting (CMC) to perform an actuarial projection of LODA costs over the next 10 years. In each year of the projection, CMC projected the cost of paying all benefits to current beneficiaries and to projected future beneficiaries at that point in time. The actuarial results for each year provide a snapshot of the financial position on the valuation date.

The actuarial projection included 21 scenarios addressing a variety of funding and LODA policy changes. These scenarios included altering the target funded status for the LODA Fund (Chapter 6) as well as options to change the eligibility criteria and benefits provided under LODA (Chapters 4 and 5).

Two key assumptions in the actuarial model are related to the incidence of death and disability, and cost of benefits. The incidence rates were developed from historical data and last updated in 2012 following an experience study comparing historical data to the actuarial assumptions. The cost assumptions are developed from benefit payment data and then increased over time based on assumed rates of health insurance inflation (Table B-2).

TABLE B-2
Actuarial cost and trend assumptions

Employer group	Under age 65	Over age 65
Participating	\$658.99	\$334.98
Non-participating	\$684.03	\$493.02
Fiscal year	Under age 65	Over age 65
2014	8.50%	6.25%
2015	7.50%	6.00%
2016	6.50%	5.75%
2017	6.00%	5.25%
2018	5.50%	5.00%
2019 and beyond	5.00%	5.00%

SOURCE: Cavanaugh Macdonald Consulting actuarial projection methods.

Other programs analysis

JLARC collected data from VWC, VRS, and DOJ to assess the extent to which LODA beneficiaries are receiving benefits from other programs (Table B-3).

TABLE B-3
Information from DOA, VWC, VRS, and DOJ was used for other programs analysis

Data source	Description of data	Analysis performed
DOA	Claim and investigation data, FY 2009–FY 2013	Beneficiaries approved between FY 2009 and FY 2013 receiving other benefits
VWC	Workers' compensation benefits for LODA beneficiaries, FY 2009–FY 2013	Percentage of approved LODA beneficiaries receiving workers' compensation benefits
VRS	Life insurance benefits for LODA beneficiaries, FY 2009–FY 2013	Percentage of deceased LODA beneficiaries receiving VRS life insurance benefits
	Disability benefits for LODA beneficiaries, FY 2009–FY 2013	Percentage of disabled LODA beneficiaries receiving VRS disability benefits
	Health Insurance Credit benefits for LODA beneficiaries, FY 2009–FY 2013	Percentage of disabled LODA beneficiaries receiving VRS Health Insurance Credit benefits
DOJ	Social Security Disability Insurance benefits received for LODA beneficiaries, FY 2009–FY 2013	Percentage of disabled LODA beneficiaries receiving SSDI benefits
	PSOB benefit for LODA beneficiaries, FY 2001–FY 2013	Percentage of deceased LODA beneficiaries receiving PSOB benefits

SOURCE: JLARC staff analysis.

Health insurance analysis

JLARC staff reviewed records maintained by DOA and DHRM to examine health care and health insurance expenses for LODA beneficiaries. Benefit payment information from DOA was used to determine the cost, source, and type of health insurance plans used by LODA beneficiaries. This information was used to calculate the average cost for each of the following health insurance plans:

- state plan (single, single plus one, family, Medicare supplement),
- local plan (single, single plus one, family, Medicare supplement),
- employer-subsidized private plan (single, single plus one, family), and
- individual plan (single, single plus one, family, Medicare supplement).

Information from DHRM was used to determine the full cost of providing health care to LODA beneficiaries. Data on health care claims paid by the health insurance plan was compared to the premiums collected for LODA beneficiaries on health plans administered by DHRM. These included state plans and plans under the ‘The Local Choice’ program. This data was used to assess the extent to which LODA beneficiaries are being subsidized by members of state and local health insurance plans (Table B-4).

TABLE B-4
Information from DOA and DHRM was used for health insurance analysis

Data source	Description of data	Analysis performed
DOA	Monthly health insurance premiums as of June 30, 2012 Spouse and dependent data as of the time of original LODA claim	Source and type of health insurance plans used by LODA beneficiaries Average cost of health insurance plans used by LODA beneficiaries
DHRM	Health care expenses and health insurance premiums for LODA beneficiaries and other state employees enrolled in a state health insurance plan, FY 2013	Health care subsidies for LODA beneficiaries on state plans

SOURCE: JLARC staff analysis.

Appropriateness of eligibility decisions and timeliness analysis

Information from DOA, VWC, and VSP was used to examine the appropriateness and timeliness of eligibility determinations. The appropriateness of DOA’s eligibility decisions for cases approved between FY 2009 and FY 2013 was examined, in part, by reviewing information provided by VWC Commission. Of the 356 cases approved by DOA, information on workers’ compensation benefits was available for 286 cases, but it was unavailable in 70 cases. This occurred primarily because the injuries occurred prior to 2009, when VWC’s database was initially created, or there was insufficient information to match the DOA cases to VWC’s database. JLARC staff reviewed DOA case files for a sample of 25 cases that were missing from the VWC database to determine whether they had received workers’ compensation benefits. Of those 25 cases, the proportion of claimants who received workers’ compensation benefits was 72 percent. For claimants who did not receive workers’ compensation benefits, there was alternative information to support the “line of duty” related criteria,

including accident reports, death certificates, attending physician's reports, and pre-employment physicals. For each case involving a disability claim, supporting evidence from attending physician reports and retirement programs indicated that the work-related disability was also permanent. Case files at DOA were likewise reviewed for 27 cases that were denied for the LODA program to confirm whether documentation supported DOA decisions to deny benefits for those claimants.

Information from DOA and VSP was also used to examine the timeliness of LODA eligibility decisions for all public safety officers and surviving spouses who applied for LODA benefits between FY 2009 and FY 2013. VSP provided information on the date each case was received by VSP and the date VSP began the LODA investigation. DOA provided information on the date DOA received each case from VSP and the date they completed each eligibility determination. This data was used to calculate the duration of the VSP investigation and the duration of DOA's eligibility determination for each LODA claim (Table B-5).

TABLE B-5

Information from DOA, VWC, and VSP was used to assess the appropriateness and timeliness of eligibility determinations

Data source	Description of data	Analysis performed
DOA	Claim and investigation data, FY 2009–FY 2013	Number of claimants approved and denied by DOA, FY 2009–FY 2013 Number of LODA beneficiaries with documentation supporting eligibility for LODA Length of time for DOA eligibility determinations
VWC	Workers' compensation benefits, October 2009–July 2014	Number of LODA beneficiaries approved for workers' compensation benefits or who have received workers' compensation benefits
VSP	LODA investigation received and start dates, FY 2009–FY 2013	Length of time for completion of LODA investigations by VSP and transfer of completed LODA investigations from VSP to DOA

SOURCE: JLARC staff analysis.

Re-employment and earnings analysis

JLARC staff also examined quarterly wage and employer information from VEC for all public safety officers and surviving spouses who have been approved for LODA benefits and for which data was available at DOA. Quarterly wage data was only available from VEC for anyone who was employed in Virginia from October 1, 2009 through June 30, 2014, and therefore public safety officers and surviving spouses who were employed outside of that timeframe or outside of Virginia were not included in this analysis. Wage information from VEC was analyzed to understand the extent to which LODA beneficiaries and spouses were employed. Wage data was compared to pre-disability wage information from VRS and VWC to estimate the number of disabled public safety officers who were re-employed with similar salaries following approval for the LODA program. This information was also used to assess total household income, including both the disabled public safety officers and spouse.

Wage and employer information from VEC was also used to identify the number of LODA beneficiaries who may have access to employer-subsidized private insurance. Based on information from the Medical Expenditure Panel Survey by the Agency for Healthcare Research and Quality, it appears that most employees who earned at least \$23,000 in 2012 were likely to have access to health insurance through employment. Wage and employer information from VEC data was used to identify the number of beneficiaries who earned at least \$23,000 from a private employer to examine Option 3 in Chapter 4 (Table B-6).

TABLE B-6
Information from DOA, VEC, and VRS was used for an analysis of re-employment and earnings among LODA beneficiaries

Data source	Description of data	Analysis performed
DOA	Claimant application information, FY 2001–FY 2013	Number of claimants approved and denied by DOA, FY 2001–FY 2013
VEC	Employer and wage information, FY 2009–FY 2014	Number of LODA beneficiaries earning wages in FY 2013 Number of LODA beneficiaries who were employed by a private employer Number of LODA beneficiaries with household salaries in FY 2013 Number of LODA beneficiaries with salaries exceeding pre-disability salaries
VRS	Pre-disability salary and pension information	Number of claimants with VRS pensions in FY 2013

SOURCE: JLARC staff analysis.

Survey

JLARC staff conducted a survey of VACoRP, VMLIP, and individually self-insured localities to collect information on the administration of program benefits, policies regarding access to local health insurance plans following approval for LODA benefits, expenses associated with administration of LODA benefits, observations about the eligibility determination process, and suggestions for improving the LODA program. The following non-participating localities completed this survey:

- City of Alexandria,
- City of Danville,
- City of Hampton,
- City of Hopewell,
- City of Lynchburg,
- City of Newport News,
- City of Norfolk,
- City of Richmond,

- City of Roanoke,
- Chesterfield County,
- Fairfax County,
- Loudoun County, and
- Prince William County.

Two additional localities, Henrico County and Montgomery County, and one airport, the Peninsula Airport Commission, did not return completed surveys.

Document and literature review

JLARC staff performed a review of the Code of Virginia to obtain historical information on the Line of Duty Act. JLARC staff also reviewed information on programs similar to LODA in other states. An initial review was conducted of information provided by three public safety officer websites: the National Fallen Firefighters Foundation, Concerns of Police Survivors, and Officer Down Memorial Page, Inc. This information informed a more detailed literature review of other states' laws and regulations for similar line of duty programs.

JLARC staff also reviewed laws, regulations, and program documentation for similar programs that provide benefits to LODA beneficiaries. These programs included VWC, VRS disability and life insurance programs, the PSOB Programs, and SSDI.

Appendix C: Other State Line of Duty Benefit Programs

Most other states provide supplemental benefits to public safety officers who are injured or killed in the line of duty. The covered employees, covered events, and benefits provided vary greatly across states. Thirty five other states offer a death benefit specifically to public safety officers who are killed in the line of duty. Some states provide a higher pension as a supplement or replacement for a death benefit. Across the 35 states, the amount of the death benefit ranges from a low of \$1,000 in Utah to a high of \$342,088 in Illinois (Table C-1). The average is approximately \$115,000.

Some states differentiate benefits based on the circumstances of the death or the deceased’s occupation. Arkansas increases the benefit by \$25,000 for State Police, as well as by \$150,000 for line of duty deaths under certain circumstances. Florida recognizes three tiers of benefits depending on the cause of death. The amount of most states’ death benefit is constant over time, but some states mandate a regular adjustment of the benefit to account for inflation. Wisconsin is unique in that it calculates the benefit as a percentage of the public safety officer’s salary, and at least two states pay their benefit in installments.

Thirteen other states provide a health insurance benefit specifically to public safety officers who are injured or killed in the line of duty and their families. Five of the 13 other states offer the benefit to disabled public safety officers with the remainder of the states limiting the benefit to surviving spouses and their families. Nine of the 13 provide a health insurance benefit and a death benefit. Massachusetts and Pennsylvania differ significantly in terms of the covered population for health insurance benefits. Massachusetts’ health insurance benefit is only available to law enforcement officers and is voluntary for localities. Pennsylvania limits the health insurance benefit to State Troopers.

TABLE C-1

Eight states provide a death benefit and health insurance benefits to state and local employees

State	Lump-sum death benefit	Health insurance benefit	
		State	Local
Virginia	\$25,000 or 100,000	ü	ü
Delaware	150,000	ü	ü
Florida	65,774, 131,547, or 198,273	ü	ü
Illinois	342,088	ü	ü
Minnesota	154,438	ü	ü
Oregon	25,000	ü	ü
Texas	250,000	ü	ü
Washington	231,959	ü	ü
Massachusetts	150,000	ü	
Pennsylvania	123,278	ü	

Appendixes

State	Lump-sum death benefit	Health insurance benefit	
		State	Local
Arizona		ü	ü
California		ü	ü
Nevada		ü	ü
New Jersey		ü	ü
Alabama	112,716		
Arkansas	50,000, 200,000, or 225,000		
District of Columbia	50,000		
Georgia	100,000		
Idaho	100,000		
Indiana	150,000		
Iowa	100,000		
Kansas	100,000		
Kentucky	80,000		
Louisiana	250,000		
Maine	50,000		
Maryland	104,438		
Michigan	25,000		
Mississippi	100,000		
Missouri	25,000		
New Hampshire	100,000		
New Mexico	250,000		
New York	Annual Salary		
North Carolina	50,000		
North Dakota	10,000		
Rhode Island	135,724		
Tennessee	25,000		
Utah	1,000		
Vermont	50,000		
West Virginia	50,000		
Wisconsin	Varies		
11 States without a lump sum death or health insurance benefit			
Total	36	14	12

SOURCE: JLARC staff analysis of information collected from other states.

NOTE: The 11 states without a lump sum death or health insurance benefit are Alaska, Colorado, Connecticut, Hawaii, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, and Wyoming.

Delaware

Delaware provides a death benefit and a health insurance benefit to children of public safety officers killed in the line of duty. State agencies manage every aspect of both benefits, including eligibility determination, benefits administration, and funding.

Covered Events

Deaths occurring on duty are assumed to have occurred “in the line of duty” for the purposes of Delaware’s program. The burden of proof is on the employer to demonstrate otherwise by a preponderance of evidence. A death that occurs on normal and special assignments may be eligible, regardless of whether it occurs during normal duty hours. Deaths during travel to or from events such as fire alarms and rescue operations qualify. Covered events exclude those from natural causes, certain accidental deaths during travel, deaths caused by disobedience, and suicide. Delaware does not recognize presumptions.

Benefits

Delaware awards a \$150,000 death benefit, paid in annual installments capped at \$30,000. If parents are the beneficiaries, they only receive \$25,000 in total. Delaware also provides health insurance to surviving children. Beneficiaries are permitted to enroll in their choice of a state group plan. There is no health insurance benefit for surviving spouses. Benefits are discontinued when dependent children reach the age of 26 or obtain Tricare or other health insurance provided by the federal government.

Benefits Administration

The Delaware Department of Insurance holds a full evidentiary hearing for all claimants, which informs the Insurance Commissioner’s eligibility determination for the death benefit and health insurance benefit. The Insurance Coverage Office (ICO) represents the state, as the payer of benefits, and may contest the claim at these hearings. The Commissioner’s determination may be appealed by claimants or the ICO on the record to the court system, but the ICO rarely chooses to appeal. The ICO administers health insurance benefits. Localities are not involved in eligibility determination, benefits administration, or funding. The state funds all benefits through annual appropriations into a program-specific self-insurance fund.

Florida

Florida provides a death benefit and a health insurance benefit to families of public safety officers killed or injured in the line of duty. Employers manage every aspect of both benefits, which have different eligibility criteria. Employers who do not offer a defined benefit retirement plan are exempt from the state requirement to provide line of duty benefits.

Covered Events

Florida classifies eligible claims for death benefits into three tiers and the level of benefits varies depending on the tier. Accidental deaths are the first tier. The second tier is accidental deaths during “fresh pursuit,” response to what is reasonably assumed to be emergencies, response to traffic accidents, or enforcement of traffic rules for law enforcement officers. The firefighter equivalent for the

second tier is accidental death as a response to “what is reasonably believed to be an emergency” and protection of life or property. Firefighters killed during training may also be eligible for death benefits. The third tier is reserved for intentionally-caused deaths, which includes arson for firefighters.

For the health insurance benefit, Florida limits covered deaths to those caused by violence during performance of duties, assaults during a riot, or arson (for firefighters). Catastrophic injuries in the line of duty are also eligible for the health insurance benefit. Catastrophic injuries are permanent impairments, including amputation, severe brain injury, blindness, or injuries equivalent in severity to Social Security disability standards. Florida recognizes presumptive causes for deaths and disabilities. Florida’s criteria prohibit eligibility when the death or disability is self-inflicted.

Benefits

In FY 2014, Florida awarded \$65,774 for the first tier, \$131,547 for the second tier, and \$198,273 for the third tier. The amount of the benefit is adjusted annually for inflation. The health insurance benefit allows beneficiaries to pay no premiums for the employer’s basic group plan.

The statute does not explicitly discontinue benefits if the employee recovers from the catastrophic disability. Some localities may do so, but this practice is likely to be rare because the definition of catastrophic is highly severe. Benefits are discontinued for spouses upon remarriage and for dependent children when they reach the age of 26, or earlier if they are independent.

Benefits Administration

The employer of a deceased or disabled public safety officer determines eligibility for all claims and administers and funds benefits. The program is not overseen by any state agency. Appeals follow the employer’s administrative appeal process.

Illinois

Illinois provides a death benefit and a health insurance benefit to families of public safety officers killed or injured in the line of duty. The benefits are distinct from each other, having different eligibility criteria, eligibility determination processes and funding sources. The state manages the death benefit, and employers manage the health insurance benefit.

Covered Events

The program provides a death benefit in cases of death caused by violence or accident during active performance of duties, including death from injury within one year of those circumstances. For law enforcement officers, covered events specifically encompass but are not limited to: violence directed at the officer due to performance of duties, prevention of crimes or apprehension of suspects, travel to or from employment, and work breaks. Covered events can include those that occur off duty. Covered events for Department of Corrections and Department of Juvenile Justice employees must be caused by the wilful act of individuals under the departments’ jurisdiction. Illinois excludes deaths caused by wilful misconduct or intoxication.

The program provides a health insurance benefit in cases of death or catastrophic disability. Covered events are those that occur in “fresh pursuit,” in response to what is reasonably believed to be an

emergency, an illegal act, or criminal investigation. However, the State Supreme Court in an appellate decision, set a precedent for defining “catastrophic” as the inability to perform one’s own occupation, in line with the state’s disability pensions. Illinois does not recognize presumptions for either benefit.

Benefits

In FY 2014, Illinois awarded a \$342,088 death benefit, and the amount of the benefit is adjusted annually for inflation. The health insurance benefit allows beneficiaries to pay no health insurance premiums for the employer’s group plan. Benefits are discontinued for spouses upon remarriage and for dependent children when they reach the age of majority, with exceptions for students.

Benefits Administration

For death benefits, the Attorney General conducts an investigation and, in simple cases, provides a recommendation. Otherwise, a Court of Claims Commissioner holds a full evidentiary hearing. In either case, a majority of the seven Court of Claims judges must approve the eligibility determination. Appeals are limited to another hearing in the same Court, or a due process appeal to another court. The Attorney General can appeal, but generally does not do so. The state funds death benefits through appropriations.

Employers determine eligibility for health insurance benefits for catastrophic injuries and abide by Court of Claims decisions in death cases. Employers administer and fund health insurance benefits. The majority of localities pre-fund health insurance benefits.

Minnesota

Minnesota provides a death benefit and health insurance benefits to families of public safety officers killed or injured in the line of duty. For both benefits, one state agency determines eligibility for deaths and another agency determines eligibility for disabilities. The death benefit is funded by the state, while the health insurance benefits are administered and funded by employers.

Covered Events

Minnesota does not cover deaths from “natural causes.” For law enforcement officers, coverage includes accidental deaths if they occur in the “course and scope of duties.”

Minnesota also provides health insurance benefits for public safety officers with disabilities that are expected to last at least a year and keep them from performing their own occupation. Covered events are those that occur during “inherently dangerous” activities that are job-specific. Minnesota does not recognize presumptions.

Benefits

In FY 2014, Minnesota awarded a \$154,438 death benefit. The amount of the benefit is adjusted annually for inflation. Minnesota guarantees access to the employer’s health insurance plan and allows beneficiaries to receive the employer contribution towards premiums. Employers may discontinue benefits when a claimant recovers from disability, but the degree to which employers monitor the claimant’s medical status may vary.

Benefits are discontinued for spouses and children when they are covered by another group health plan. If an employee transitions to health insurance coverage with a new employer, and then loses that coverage, the employee may return to the employer plan. Benefits are discontinued for dependent children at age 18, unless they are students or disabled to the extent of being unable to support themselves. Whether the disabled claimant was a state or local employee, only the state-managed retirement systems can discontinue benefits for a claimant who recovers from his disability. Benefits are discontinued for a beneficiary who is eligible for Medicare. Benefits are discontinued for all beneficiaries when a claimant turns 65, or would have turned 65 if deceased.

Benefits Administration

The Commissioner of Public Safety determines eligibility for all death claims, and the benefit is funded through an appropriations-based special account. The state retirement system determines eligibility for disability claims. Employers administer and fund health insurance benefits and can appeal eligibility decisions through an evidentiary administrative hearing. The state partially refunds localities for benefits expenditures.

Oregon

Oregon provides a death benefit, a disability benefit, and a health insurance benefit in cases of death or permanent total disability. A dedicated state board manages all aspects of line of duty benefits, including eligibility determination, benefits administration, and funding.

Covered Events

The program covers a death or disability if it occurs as the direct and proximate result of an enforcement action, emergency response, certain training exercises, or an act committed against the officer due to his occupation. Covered events can include those that occur off duty. Covered disabilities must be “permanent” and “total,” sharing the Oregon workers’ compensation definition as a physical condition that prevents the individual from employment in a “suitable” occupation. For both types of benefits, covered events exclude those substantially caused by the employee’s actions. This includes situations in which the individual engaged in “grossly negligent” behavior or intentional misconduct, those intentionally caused by the employee, or if the employee was voluntary intoxicated. Oregon does not recognize presumptions.

Benefits

Oregon awards \$25,000 for deaths and permanent total disabilities. The health insurance benefit allows beneficiaries to pay no health insurance premiums for any plan that is comparable to the plan held at the time of death or disability. The Board of the Public Safety Memorial Fund may choose not to provide health insurance benefits or to offer a reduced benefit for particular claims at its discretion, after considering factors such as fund balance and claimant need. Thus far, it has fully funded health insurance premiums.

All benefits are discontinued after five years or when claimants gain access to health insurance through another source, whichever comes first. Benefits are discontinued for spouses upon remarriage and for dependent children when they reach the age of 18, with exceptions for students.

Benefits Administration

The Board of the Public Safety Memorial Fund determines eligibility for all claimants. Its staff assists with eligibility and administers benefits. While there is no appeal process, claimants can reapply with additional information. The Department of Public Safety Standards and Training transfers a fluctuating share of criminal fines and assessment revenue to the Public Safety Memorial Fund to pay for death and health insurance benefits. Localities are not involved in eligibility determination, benefits administration, or funding.

Texas

Texas provides a death benefit and a health insurance benefit to families of public safety officers killed in the line of duty. A state agency determines eligibility, but the claimant's circumstances govern whether beneficiaries obtain health insurance through the employer or through the state.

Covered Events

The program covers events caused by accident or illness due to hazardous conditions. Social and ceremonial events are covered. For a death that occurs during training exercises, the program provides the death benefit only. The law specifically allows off-duty firefighters to be eligible for benefits if they were certified to perform the activity causing death. Texas does not recognize presumptions.

Benefits

Texas awards a \$250,000 death benefit. The health insurance benefit varies. Unmarried survivors without a pension who are not eligible for Social Security gain access to the state group plan. Otherwise, Texas guarantees access to the employer plan and allows survivors to pay premiums equivalent to active employees.

Benefits are discontinued for spouses on the state plan when they remarry or become eligible for Social Security. Benefits are discontinued for dependents on any plan at age 26.

Benefits Administration

The state retirement system determines eligibility for both types of benefits. An attorney and analyst make a recommendation, and the retirement system's Director of Customer Benefits makes the final decision, which can be appealed through the administrative process. The comptroller sends beneficiaries the death benefit, which is funded by the state through appropriations. Health insurance is administered and funded by either the state health system or the employer, depending on the claimant.

Washington

Washington provides a death benefit and a health insurance benefit to families of public safety officers killed or totally disabled in the line of duty. A state agency determines eligibility for all work-related death benefits and awards a higher amount to members of the Law Enforcement and Firefighter (LEOFF) Plan, the State Patrol Plan, and the Volunteer Firefighters' and Reserve Officers' (VFRO) Plan. In unrelated processes, two other agencies determine eligibility for the health insurance benefit for disabled employees.

Covered Events

To be covered, a death must occur as a result of injuries sustained in the course of employment, and occupational diseases are included. Washington specifies that covered deaths may occur while the employee is not performing “the work on which his or her compensation is based.” Deaths while commuting are covered, with exceptions including public buses, carpools, and bicycling. Deaths occurring while parking one’s vehicle at work or engaging in some social activities are not eligible.

The program provides a health insurance benefit in cases of catastrophic disability. Covered LEOFF disabilities include all those caused by occupational activities. Covered State Patrol disabilities include traffic enforcement, law enforcement, investigations, hazardous activities, and certain training exercises. The State Patrol excludes disabilities due to activities that are illegal or “do not expose the officer to hazardous elements or require physical exertion” such as administrative responsibilities. Both retirement systems require that disabilities last 12 months, be expected to last 12 months, or be expected to result in death. Disabled employees exceeding a defined income threshold or identified as medically recovered are ineligible for benefits. Washington recognizes presumptions for deaths and disabilities only for firefighters.

Benefits

The death benefit payment amount has been set at \$231,959 for FY 2015. The amount of the benefit is adjusted annually for inflation. The health insurance benefits for State Patrol or LEOFF deaths in the line of duty and for State Patrol disabilities in the line of duty allow beneficiaries to pay no premiums for a state plan. This benefit grants eligible local employees access to the state’s health plans, which would not otherwise occur for individuals whose employers do not participate in the plans. The health insurance benefit for LEOFF disabilities in the line of duty allow beneficiaries to pay no health insurance premiums for any plan that is comparable to the plan held at the time of disability. The only health insurance benefit for members of the Volunteer Firefighters’ and Reserve Officers’ Plan is access to the state plan for beneficiaries of members who are killed in the line of duty, but this benefit does not affect premiums.

Benefits for all disabled claimants are discontinued if the claimant exceeds a defined income threshold or is identified as medically recovered. Benefits are discontinued when beneficiaries become eligible for Medicare, with the exception of disabled LEOFF members. Lastly, benefits are discontinued when a dependent reaches the age of 26.

Benefits Administration

Washington workers’ compensation determines eligibility for both types of benefits with the same process as other workers’ compensation claims but without access to the agency’s medical experts. Appeals are identical to other workers’ compensation claims. The employee’s retirement system, as the payer of benefits, has standing to appeal eligibility decisions but has not done so in recent years. The state-managed retirement system determines eligibility for LEOFF disability claims and the State Patrol determine eligibility for officers’ disabilities claims. Appeals follow the respective administrative appeal process. The employee’s retirement plan trust fund is the funding source for both types of benefits.

Appendix D: LODA Employers by Funding Mechanism

LODA employers use one of three funding mechanisms to pay for LODA benefits: participation in the LODA Fund, group self-insurance through participation in the Virginia Municipal League Insurance Program (VMLIP) or the Virginia Association of Counties Risk Pool (VACoRP), and individual self-insurance. State agencies must participate in the LODA Fund. Counties, cities, towns, and other local entities may choose any funding mechanism (Table D-1).

TABLE D-1
Funding mechanisms used by LODA employers

	LODA Fund	Group self-insurance	Individual self-insurance
State agencies	70		
Counties	8	81	6
Cities	14	16	9
Towns	30	92	0
Other local entities	5	25	1
Total	127	214	16

SOURCE: JLARC staff analysis of information collected from VRS and non-participating localities.

Employers that participate in LODA Fund

State agencies

Adult Community Service	Eastern Region Correctional Field Units
Adult Regional Office	Fluvanna Women's Correctional Center
Alcoholic Beverage Control Board	George Mason University
Augusta Correctional Center	Germanna Community College
Bland Correctional Center	Grayson County Correctional Center
Buckingham Correctional Center	Green Rock Correctional Center
Central Region Correctional Field Units	Greensville Correctional Center
Central Virginia Community College	Haynesville Correctional Center
Christopher Newport University	Indian Creek Correctional Center
Coffeewood Correctional Center	J. Sargeant Reynolds Community College
College Of William and Mary	James Madison University
Conservation & Recreation	Keen Mountain Correctional Center
Correctional Center for Women	Longwood University
Deep Meadow Correctional Center	Lord Fairfax Community College
Deerfield Correctional Center	Lunenburg Correctional Center
Department of Corrections	Marine Resources Commission
Department of Forestry	Marion Correctional Treatment Center
Department of Game & Inland Fisheries	Norfolk State University
Department of Military Affairs (Ft. Pickett Fire & Rescue)	Northern Virginia Community College
Department of State Police	Nottoway Correctional Center
Dillwyn Correctional Center	Old Dominion University
Division of Capitol Police	Pocahontas State Correctional Center
	Powhatan Correctional Center
	Powhatan Reception and Classification Center

Employers that participate in LODA Fund, continued

Radford University
 Red Onion State Prison
 Richard Bland College
 Southwest Virginia Community College
 St. Brides Correctional Center
 State Police Troopers - State Police Officers'
 Retirement System
 Sussex I Correctional Center
 Sussex II Correctional Center
 Thomas Nelson Community College
 University Of Mary Washington
 University Of Virginia - Academic
 University of Virginia College At Wise
 Virginia Commonwealth University - Academic
 Virginia Department of Emergency Management
 Virginia Department of Motor Vehicles
 Virginia Highlands Community College
 Virginia Military Institute
 Virginia State Lottery
 Virginia State University
 Virginia Tech
 Virginia Western Community College
 Wallens Ridge Correctional Center
 Woodrow Wilson Rehabilitation Center
 Wytheville Community College

Counties

Arlington County
 Buchanan County
 Gloucester County
 Greene County
 Lee County
 Nottoway County
 Russell County
 Wise County

Cities

City of Bristol
 City of Chesapeake
 City of Falls Church
 City of Franklin
 City of Manassas
 City of Manassas Park
 City of Norton
 City of Petersburg
 City of Portsmouth
 City of Radford

City of Suffolk
 City of Virginia Beach
 City of Williamsburg
 City of Winchester

Towns

Town of Abingdon
 Town of Appalachia
 Town of Big Stone Gap
 Town of Brodnax
 Town of Chatham
 Town of Christiansburg
 Town of Courtland
 Town of Dumfries
 Town of Front Royal
 Town of Grundy
 Town of Hurt
 Town of Independence
 Town of Jonesville
 Town of La Crosse
 Town of Luray
 Town of Orange
 Town of Pembroke
 Town of Pound
 Town of Quantico
 Town of Remington
 Town of Richlands
 Town of Scottsville
 Town of Smithfield
 Town of South Boston
 Town of Tazewell
 Town of Vienna
 Town of Waverly
 Town of Weber City
 Town of Woodstock
 Town of Wytheville

Other Local Entities

Capital Region Airport Commission
 Norfolk Airport Authority
 Piedmont Regional Jail
 Shenandoah Valley Regional Airport Commission
 Virginia Port Authority

Local LODA employers that use group self-insurance

Counties

Accomack County
 Albemarle County
 Alleghany County
 Amelia County
 Amherst County
 Appomattox County
 Augusta County
 Bath County
 Bedford County
 Bland County
 Botetourt County
 Brunswick County
 Buckingham County
 Campbell County
 Caroline County
 Carroll County
 Charles City County
 Charlotte County
 Clarke County
 Craig County
 Culpeper County
 Cumberland County
 Dickenson County
 Dinwiddie County
 Essex County
 Fauquier County
 Floyd County
 Fluvanna County
 Franklin County
 Frederick County
 Giles County
 Goochland County
 Grayson County
 Greensville County
 Halifax County
 Hanover County
 Henry County
 Highland County
 Isle Of Wight County
 James City County
 King and Queen County
 King George County
 King William County
 Lancaster County
 Louisa County
 Lunenburg County

Madison County
 Mathews County
 Mecklenburg County
 Middlesex County
 Nelson County
 New Kent County
 Northampton County
 Northumberland County
 Orange County
 Page County
 Patrick County
 Pittsylvania County
 Powhatan County
 Prince Edward County
 Prince George County
 Pulaski County
 Rappahannock County
 Richmond County
 Roanoke County
 Rockbridge County
 Rockingham County
 Scott County
 Shenandoah County
 Smyth County
 Southampton County
 Spotsylvania County
 Stafford County
 Surry County
 Sussex County
 Tazewell County
 Warren County
 Washington County
 Westmoreland County
 Wythe County
 York County

Cities

City of Bedford
 City of Buena Vista
 City of Charlottesville
 City of Colonial Heights
 City of Covington
 City of Emporia
 City of Fairfax
 City of Fredericksburg
 City of Galax

Local LODA employers that use group self-insurance, continued

City of Harrisonburg	Town of Glade Springs
City of Lexington	Town of Glasgow
City of Martinsville	Town of Gordonsville
City of Poquoson	Town of Gretna
City of Salem	Town of Grottoes
City of Staunton	Town of Halifax
City of Waynesboro	Town of Hallwood
<i>Towns</i>	Town of Haymarket
Town of Alberta	Town of Haysi
Town of Altavista	Town of Herndon
Town of Amherst	Town of Hillsville
Town of Ashland	Town of Honaker
Town of Berryville	Town of Kenbridge
Town of Blacksburg	Town of Kilmarnock
Town of Blackstone	Town of Lawrenceville
Town of Bloxom	Town of Lebanon
Town of Bluefield	Town of Leesburg
Town of Bowling Green	Town of Louisa
Town of Boykins	Town of Marion
Town of Bridgewater	Town of McKenney
Town of Broadway	Town of Middleburg
Town of Brookneal	Town of Middle Town
Town of Burkeville	Town of Mount Jackson
Town of Cape Charles	Town of Narrows
Town of Cedar Bluff	Town of New Market
Town of Chase City	Town of Newsoms
Town of Chilhowie	Town of Occoquan
Town of Chincoteague	Town of Onancock
Town of Clarkesville	Town of Onley
Town of Clifton Forge	Town of Parksley
Town of Clintwood	Town of Pearisburg
Town of Coeburn	Town of Pennington Gap
Town of Colonial Beach	Town of Pulaski
Town of Craigsville	Town of Purcellville
Town of Crewe	Town of Rich Creek
Town of Culpeper	Town of Rocky Mount
Town of Damascus	Town of Rural Retreat
Town of Dayton	Town of Saltville
Town of Drakes Branch	Town of Shenandoah
Town of Dublin	Town of South Hill
Town of Eastville	Town of St. Paul
Town of Edinburg	Town of Stanley
Town of Elkton	Town of Stephens City
Town of Exmore	Town of Strasburg
Town of Farmville	Town of Tappahannock
Town of Gates City	Town of Timberville

Local LODA employers that use group self-insurance, continued

Town of Victoria
Town of Vinton
Town of Warrenton
Town of Warsaw
Town of West Point
Town of White Stone
Town of Windsor
Town of Wise

Other Local Entities

Albemarle-Charlottesville Regional Jail
Blue Ridge Regional Jail Authority
Central Virginia Regional Jail
Charlottesville-Albemarle Airport Authority
Chesapeake Bay Bridge and Tunnel District
Galax-Grayson EMS
Hampton Roads Regional Jail Authority
Harrisonburg-Rockingham Emergency Communications Center
Meherrin River Regional Jail
Middle Peninsula Regional Security Center
Middle River Regional Jail
New River Valley Regional Jail
Northern Neck Regional Jail
Northwestern Regional Jail Authority
Pamunkey Regional Jail
Peumansend Creek Regional Jail Authority
Rappahannock Regional Jail Authority
Richmond Metropolitan Authority
Riverside Regional Jail
Southside Regional Jail
Southwest Virginia Regional Jail Authority
Virginia Peninsula Regional Jail
Western Tidewater Regional Jail Authority
Western Virginia Regional Jail Authority
Western Virginia Water Authority

Local LODA employers that individually self-insure

Counties

Chesterfield County
Fairfax County
Henrico County
Loudoun County
Montgomery County
Prince William County

Cities

City of Alexandria
City of Danville
City of Hampton
City of Hopewell
City of Lynchburg
City of Newport News
City of Norfolk
City of Richmond
City of Roanoke

Other Local Entity

Peninsula Airport Commission

Appendix E: Agency Responses

As part of an extensive validation process, state agencies and other entities involved in a JLARC assessment are given the opportunity to comment on an exposure draft of the report. JLARC staff provided an exposure draft of this report to the following state agencies and entities:

- Secretary of Finance
- Department of Accounts
- Department of Human Resource Management
- Virginia Retirement System
- Virginia State Police
- Virginia Workers' Compensation Commission

Appropriate technical corrections resulting from their comments have been made in this version of the report. This appendix includes a written response letter provided by the Department of Accounts, the Virginia Retirement System, the Virginia State Police, and the Virginia Workers' Compensation Commission.



COMMONWEALTH of VIRGINIA

DAVID A. VON MOLL, CPA
COMPTROLLER

Office of the Comptroller

P. O. BOX 1971
RICHMOND, VIRGINIA 23218-1971

November 24, 2014

Mr. Hal E. Greer, Director
Joint Legislative Audit and Review Commission
201 North 9th Street
General Assembly Building, Suite 1100
Richmond, Virginia 23219

Dear Mr. Greer:

Thank you for the opportunity to review and comment on the exposure draft of your report on *Virginia's Line of Duty Act*. I was impressed with the quality and thoroughness of the report. I also want to express my appreciation for the professionalism of your staff throughout the study in their consultations with my office.

Department of Accounts staff members have reviewed the draft report and worked closely with your staff to offer comments and suggestions. We appreciate your consideration of our comments and suggestions as the report is finalized.

We are proud of our role in providing these important benefits to public safety officers and their families since 1972. I welcome your recommendations to improve the program to ensure its long-term sustainability.

Again thank you for the opportunity to comment on the exposure draft report and if I can be on any further assistance please let me know.

Sincerely,

A handwritten signature in black ink that reads "D. A. Von Moll".

David A. Von Moll

Copy: The Honorable Richard D. Brown, Secretary of Finance



1200 East Main Street, P.O. Box 2500, Richmond, Virginia 23218-2500
Telephone: (804) 344-3120 Fax: (804) 786-1541

Robert P. Schultze
Director

November 25, 2014

Harold E. Greer
Director
Joint Legislative Audit and Review Commission
201 North 9th Street, Suite 1100
Richmond, VA 23219

Dear Hal:

Thank you for the opportunity to review the exposure draft of *Virginia's Line of Duty Act* report. My staff and I appreciate the thoughtful and thorough research your staff performed over many months to develop what I'm sure will be an extremely useful tool for the General Assembly as it considers potential changes to this significant benefit.

While VRS raised these issues with JLARC staff during the review process, we would like to take this opportunity to re-emphasize several points of major importance to VRS, particularly concerning the proposal to transition the LODA eligibility determination process to VRS.

The report suggests that the eligibility determination process, currently being handled by the Department of Accounts, be transitioned to VRS. VRS is willing to take on this responsibility if directed to do so, but due to the exclusive benefit rule, it would be critical to ensure that adequate additional funding and positions are provided. Under the exclusive benefit rule, VRS is not allowed to use pension trust funds for any purpose other than for the benefit of its members, retirees and beneficiaries. The processes that VRS currently uses for disability determinations rely heavily on third-party administrators for certain functions, such as medical review, and these expenses would need to be taken into account in any transition plan.

The report also recommends that employers be provided the right to appeal LODA eligibility determinations. Providing both the employee and the employer with a right of appeal could lead to substantial delays, with multiple appeals, with each party appealing a determination of the other party's appeal. VRS has suggested that perhaps it would be just as effective and perhaps more flexible if the employer were allowed to provide contradictory or conflicting documentation at the original determination stage and throughout the administrative appeal process so that it would become part of the case file. Similar to VRS' current recall policies for disability retirement, should post-determination information be discovered suggesting that a LODA beneficiary is no longer eligible for benefits, then VRS could initiate the recall process to reexamine the beneficiary's eligibility. In general, VRS supports having appeals of LODA eligibility determinations take place pursuant to the Virginia Administrative Process Act in a manner similar to that which is employed for disability retirement determinations.

Joint Legislative Audit Review Commission

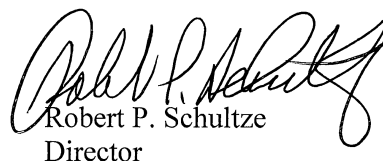
Page 2

November 25, 2014

Lastly, VRS is currently administering the LODA fund on a pay-as-you-go basis as this is the current required structure set out in the Appropriation Act. VRS, however, supports a pre-funded model for LODA if that were to become possible. Further, in order to dampen potential rate increases resulting from a migration away from the current disbursement basis to a new funding model, a pre-funding structure could be phased in over a specified period of time.

Thank you again for the opportunity to comment on the exposure draft. We would be happy to provide assistance to JLARC and the members of the General Assembly as the proposals included in this report are considered.

Sincerely,



Robert P. Schultze
Director

DEC 02 2014



Colonel W. S. (Steve) Flaherty
Superintendent

(804) 674-2000

COMMONWEALTH of VIRGINIA

DEPARTMENT OF STATE POLICE

Lt. Col. Robert B. Northern
Deputy Superintendent

P. O. BOX 27472, RICHMOND, VA 23261-7472

December 1, 2014

Mr. Hal E. Greer, Director
Joint Legislative Audit and Review Commission
201 N. 9th Street
General Assembly Building, Suite 1100
Richmond, Virginia 23219

Dear Mr. Greer:

Thank you for the opportunity to review and comment on the draft report on *Virginia's Line of Duty Act*. I appreciate the thorough research that was conducted and the efforts of your staff in offering recommendations to improve the administration of this important benefit for public safety employees.

I particularly appreciate the diligence and hard work of Mr. Jeff Lunardi, Senior Legislative Analyst, in working closely with my staff in analyzing the line-of-duty investigations conducted by the Virginia Department of State Police pursuant to the provisions of the *Code of Virginia* on applicant's for benefits through the *Line of Duty Act*.

I am confident this draft report will be helpful to the General Assembly in future deliberations regarding this subject.

Sincerely,


Superintendent

WSF/JWW



DEC -1 2014

COMMONWEALTH of VIRGINIA

ROGER L. WILLIAMS
Chairman

WESLEY G. MARSHALL
Commissioner

R. FERRELL NEWMAN
Commissioner

**VIRGINIA WORKERS' COMPENSATION
COMMISSION**

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JAMES J. SZABLEWICZ
Chief Deputy Commissioner

EVELYN V. MCGILL
Executive Director

MARJORIE P. PLATT
Clerk

November 24, 2014

Hal E. Greer, Director
Joint Legislative Audit and Review Commission
201 North 9th Street, General Assembly Building, Suite 1100
Richmond, VA 23219

Dear Mr. Greer:

Thank you for the Exposure Draft of the Virginia Line of Duty Act Report. We appreciate this submission to our agency for review by our staff, requesting comments, and any proposed changes to the relevant sections. The Virginia Workers' Compensation Commission staff was please to review the draft report and suggested feedback has been provided, most of which helps to clarify some key points.

The report is very well done and our Commission looks forward to the final report being completed. Our staff enjoyed working with JLARC on this project. If anything further is needed from our agency, please do not hesitate to contact me on 804-205-3060. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Evelyn McGill".

Evelyn McGill
Executive Director

EVM/jjb

cc: Jeff Lunardi
Chairman Roger L. Williams

JLARC.VIRGINIA.GOV

General Assembly Building, Suite 1100
201 N. 9th Street, Richmond, VA 23219