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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 384
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 384's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Hackett

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill would increase the department of Public Safety's (DPS) administrative costs by between several hundred thousand dollars and possibly up to \$1.5 million to set up, regulate, and administer the new post-traumatic stress disorder (PTSD) program. Initial administrative costs would be paid by a one-time transfer of \$44 million from the Unclaimed Fund to a newly created fund, the State Post-Traumatic Stress Disorder Coverage Fund.
- The bill would increase annual PTSD claims and costs to the new PTSD program under the DPS by approximately \$44 million in the initial year. Initial claims and costs would be paid by a one-time transfer to the newly created State Post-Traumatic Stress Disorder Coverage Fund.
- The bill would increase annual costs to the state and political subdivisions (i.e., counties, municipalities, townships, and other local government employers), beginning after the first year the PTSD program is implemented, due to annual premiums associated with the PTSD coverage that would be assessed to all public employers that employed peace officers, firefighters, and emergency medical workers.

Detailed Analysis

The bill requires the Department of Public Safety (DPS) to implement and administer a post-traumatic stress disorder (PTSD) coverage program for the purpose of paying compensation and benefits. The bill specifies that such compensation and benefits would be applicable to peace officers, firefighters, and emergency medical workers (hereinafter, they are referred as "first responders") who are diagnosed, by a psychiatrist or licensed clinical psychologist, with PTSD without an accompanying physical injury in the course of, and arising out of, employment with

public employers. The bill also specifies new duties and responsibilities of the Director, including fixing the premium rates, reviewing applications, and paying for compensation and benefits for the PTSD program. Please see LSC's Bill Analysis for S.B. 384 for details, including for definitions of peace officers, firefighters, emergency medical workers, and public employers.

Compensation and benefits

The bill specifies that compensation and benefits paid to first responders under the bill must be terminated one year after any payments started. The bill authorizes the DPS Director to extend payments of such compensation and benefits for up to one additional year on receiving a recommendation from a psychiatrist or licensed clinical psychologist. The bill specifies the following compensation and benefits of the PTSD without physical injury coverage:

1. Compensation for total disability compensation and wage loss:
 - a. total disability compensation: $66\frac{2}{3}\%$ of the first responder's average weekly wage. The maximum amount of weekly compensation a first responder may receive is an amount equal to the statewide average weekly wage. The minimum amount of weekly compensation a first responder may receive is an amount equal to $33\frac{1}{3}\%$ of the statewide average weekly wage or the first responder's full wage if his or her wage is less than $33\frac{1}{3}\%$ of the statewide average weekly wage; or
 - b. for a wage loss as a result of returning to employment other than the first responder's former position or as a result of being unable to find employment consistent with the disability resulting from PTSD, the compensation would be $66\frac{2}{3}\%$ of the difference between the first responder's average weekly wage and his or her present earnings, not to exceed the statewide average weekly wage.
2. Treatment benefits: medical, nurse, and hospital services and medicines as deemed proper by the DPS Director to treat a first responder diagnosed by a psychiatrist or licensed clinical psychologist as having PTSD.

The bill specifies that no compensation is allowed during the first week of total disability due to a diagnosis of PTSD, whenever it may occur, unless and until the first responder is totally disabled for a continuous period of two weeks or more, in which, event compensation for the first week of total disability, whenever it has occurred, must be paid, in addition to any other weekly benefits that are due, immediately following the second week of total disability. The bill prohibits medical providers from charging, assessing, or otherwise attempting to collect from a first responder or employer any amount for covered services or supplies that is in excess of the allowed amount paid by the DPS Director from the newly State Post-Traumatic Stress Disorder Coverage Fund (described below).

The bill prohibits an eligible first responder from receiving compensation or benefits for PTSD with no accompanying physical injury under the bill at the same time as (1) a disability benefit or disability retirement, as applicable, from the Public Employees Retirement System (PERS), the Ohio Police and Fire Pension Fund (OP&F), the School Employees Retirement System (SERS), or the State Highway Patrol Retirement System (SHPRS) or (2) a retirement or disability benefit pursuant to the Social Security Act. The bill also allows DPS to collect both of the following from the first responder: (1) the amount of compensation or benefits paid to the first responder by the DPS Director for the time period the first responder received disability benefits or a

disability retirement from the retirement system and (2) any interest, attorney's fees, and costs the DPS Director incurs in collecting that payment.

Funding source

The bill creates a new fund, the State Post-Traumatic Stress Disorder Coverage Fund, in the state treasury to be used for (1) payments related to compensation for loss-wages, (2) payments for medical, nurse, and hospital services and medicines, and (3) payment of administrative costs incurred by DPS in administering and enforcing the bill's requirements. The bill requires the Director of Office of Budget and Management to provide a one-time transfer of \$44 million from the Unclaimed Fund to the State Post-Traumatic Stress Disorder Coverage Fund. All annual premiums related to the PTSD program and assessed by DPS to all public employers that employed first responders would be deposited into the newly created fund.

Public employers

The bill requires each public employer employing one or more peace officers, firefighters, or emergency medical workers to submit a payroll report, including specified information to the DPS Director on or before the fifteenth day of February of each year. The bill also requires such public employers to pay annually on or before the thirty-first day of December into the State Post-Traumatic Stress Disorder Coverage Fund the amount of estimated annual premium as determined by the DPS Director.

Retirement systems

The bill requires each board of the retirement systems to provide certain information, related to its member, to the DPS Director upon determining that such member's PTSD without an accompanying physical injury qualifies the member for the system's disability benefit or disability retirement.

Fiscal effect

The bill would increase DPS's administrative costs by between several hundred thousand dollars and possibly up to \$1.5 million, if the agency contracts with an actuary. The estimated amounts are based on the following assumptions: (1) LBO staff assumed that DPS does not have the same personnel expertise as the Bureau of Workers' Compensation (BWC), thus DPS would need to hire several full-time employees due to increase workload and higher level of expertise needed to implement, regulate, and administer the new PTSD program, including premiums determination, and (2) total expenditures of small state agencies' with limited oversight responsibilities and a handful of full-time employees are well below \$1 million per year, for example: the Joint Medicaid Oversight Committee (JMO; \$324,000 in FY 2019), Joint Education Oversight Committee (JEO; \$316,000 in FY 2019), and Ohio Retirement Study Council (ORSC; \$660,000 estimated expenses in FY 2020)¹. The Department may also need to contract with an actuary to determine annual premiums for each public employer that employ a peace officer,

¹ JMO and JEO budgets are funded by the state GRF, however ORSC budget is funded by the state's five retirement systems, based on the proportion of each system's total assets.

firefighter, and emergency medical worker. Based on ORSC's budget over the last five years, the estimated cost of actuarial services ranged between \$140,000 and \$240,000 per year.²

The estimated cost of claims related to the bill's PTSD coverage program is approximately \$44 million in the initial year. The estimate is based on the method and assumptions described in the actuarial analysis of H.B. 308 of the 133rd General Assembly, prepared by BWC's actuaries and dated August 23, 2019.³

The actual cost of the PTSD coverage would depend on the actual number of peace officers, firefighters, and emergency medical workers who are diagnosed with PTSD without an accompanying physical injury filing claims in a given year and the total compensation and benefits paid. Therefore, LBO staff does not rule out that a more recent analysis by BWC's actuaries, or an analysis by other actuaries may result in a cost higher than \$44 million.

Under the bill, the estimated PTSD claims and costs in the initial year would be offset by the one-time funding transfer of \$44 million in the State Post-Traumatic Stress Disorder Coverage Fund (described above). Beginning after the first year the program is implemented, the state and political subdivisions (i.e., counties, municipalities, townships, and other local government employers) costs would increase due to annual premiums associated with the PTSD coverage that would be assessed to all public employers that employed peace officers, firefighters, and emergency medical workers. Based on data from the U.S. Bureau of Labor, approximately 95% of peace officers and firefighters are employed by state agencies and local public employers. Any increase in such costs would depend on annual premiums that would be determined by DPS.

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² ORSC annual budget from FY 2017 through FY 2021 are available at www.orsc.org.

³ The estimate assumed 1,100 first responders would file a claim annually with an estimated compensation and benefits of \$40,000 per claim: $1,100 \times \$40,000 = \44 million per year. The analysis also stated that "while the extent of the potential increase is difficult to predict with any degree of precision due to significant data limitations, we feel the estimate provided is reasonable."