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## FISCAL IMPACT REPORT

SPONSOR Munoz ORIGINAL DATE 02/23/21  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Covid Presumption For Firefighters SB 261  
ANALYST Jorgensen

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 268.

### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

General Services Department (GSD)

Workers' Compensation Administration (WCA)

### **SUMMARY**

#### Synopsis of Bill

Senate Bill 261 (SB261) adds to the list of conditions presumed to be caused by employment as a firefighter: "a virus or disease that has been declared a pandemic by the president of the United States, the governor, of New Mexico, the world health organization or the federal centers for disease control and prevention, including the coronavirus disease and other future qualifying pandemics."

SB261 also changes the age requirement for breast cancer presumption from 40 to 55.

### **FISCAL IMPLICATIONS**

WCA notes: "any case of Covid-19 in which a firefighter becomes ill or dies will almost certainly result in workers' compensation insurance coverage being paid by the workers' compensation insurance company for the fire department, regardless of whether or not it was contracted through work."

Because workers' compensation will "almost certainly" be paid to firefighters as a result of illness or death related to Covid-19, this bill will not create additional liability and therefore have no fiscal impact.

### **SIGNIFICANT ISSUES**

By including Covid-related illness or death in the list of conditions presumed to be linked to work as a firefighter, SB261 shifts the burden of proof from the employee to the employer. There are currently 13 conditions that are assumed to be caused by employment as a firefighter for the purposes of award of workers' compensation. Current law allows employers to rebut, by a preponderance of evidence, a worker's claim of job-related exposure for presumed conditions.

Because the State of New Mexico does not employ nor insure local government-employed firefighters, SB261 will not have an impact on the workers' compensation program administered by GSD. Any additional liability would be borne by municipalities and counties that employ firefighters.

According to the National Conference of State Legislatures:

In total, 17 states and Puerto Rico have take action to extend workers compensation coverage to include Covid-19 as a work-related illness. Nine states have enacted legislation creating a presumption of coverage for various types of workers. Minnesota, Utah and Wisconsin limit the coverage to first responders and health care workers. Illinois, New Jersey and Vermont cover all essential workers while California and Wyoming cover all workers. Four states have used executive branch authority to implement presumption policies for first responders and health care workers in response to Covid-19. Another four states including California and Kentucky have taken executive action to provide coverage to other essential workers like grocery store employees.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB261 relates to House Bill 268 which expands the definition of injury by accident to include the contraction of coronavirus disease by an essential worker.

CJ/al