JLARC
JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

Report 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.

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.

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.

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	$10.5 - $31.3	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. Six percent 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.