



Senate Bill 10

Workers' Compensation – COVID-19 Occupational Disease Presumption

MACo Position: **OPPOSE**

To: Finance Committee

Date: March 8, 2022

From: Brianna January and Kevin Kinnally

The Maryland Association of Counties (MACo) **OPPOSES** SB 10. This bill would establish COVID-19 as a presumed occupational disease eligible for workers' compensation for first responders, public safety employees, and health care workers. It would place an undue burden on counties as a major employer of these professions, with major fiscal impact on local governments.

While counties respect the merit of this bill to protect frontline workers who become ill with COVID-19, it is unreasonable and unenforceable. It is almost impossible to determine if someone has contracted the virus as a direct result of the nature of their work, yet SB 10 will effectively settle this matter regardless of what other factors may have been in play. For example, the bill as written does not include an exclusion for unvaccinated staff who contract the virus, or for employees who have engaged in relevant risky out-of-work behaviors, essentially placing the onus completely on public sector employers.

Further, Maryland has unusually strong exclusions of rebuttability evidence during compensability hearings related to presumptions. With employers simply unable to present information about the breadth of possible exposures that may have led to the employee's contraction of the virus, employers will surely bear more than their actual share of responsibility under this broad presumption law.

Additionally, while exact costs are still unclear, the financial implications of the presumption set by SB 10 are significant. SB 10 not only includes COVID-19 diagnosis as a presumed occupational disease, but it would also include any lingering and permanent conditions related to COVID-19, some of which are still being studied. Counties, as employers, would not only have to approve and pay workers' compensation claims related to diagnosis, but they would also have to do so potentially indefinitely for each claimant. This would have a long-term impact on counties' worker compensation premium rates, or on self-insured jurisdictions' direct costs.

Lastly, counties would likely need to hire additional staff and incur additional personnel costs to process claims covered under SB 10. It is nearly impossible to predict how many claims would result from the presumption, especially when considering that the bill is retroactive to March 1, 2020 -- again extending the counties' obligation.

In short, SB 10 places an unreasonable and unenforceable burden on counties as employers and threatens significant short-term and long-term fiscal impact on county budgets. For these reasons, MACo **OPPOSES** SB 10 and urges an **UNFAVORABLE** report.