

compensation (WC) claims. If the presumptions are met, claims will likely increase leading to increased WC rates. The timing and amount of these increases is unknown at this time.

This leads into the second factor that impacts that fiscal assessment. Entities impacted expect that the bill will lead to increased WC rates, however, the exact amount and timing of potential increases are unknown at this time. According to the Department of Consumer and Business Services (DCBS) WC rates are typically calculated using a national baseline rate, such as those supplied by the National Council on Compensation Insurance, and adjusted considering actual claims experience. At this time, it is not known how many accepted claims will result from passage of the bill and what specific impacts this might have on WC rates.

City County Insurance Services' (CCIS) self-insured WC program, which covers 54 city fire services and employees 429 regular firefighters, and Special Districts Association of Oregon (SDAO) WC program, which covers 185 fire districts and 865 employees, have both raised concerns that the bill will lead to significant increases in WC rates. SDAO prepared an analysis of the potential fiscal impact assuming three cancer claims are covered per year and that each claim cost \$1 million. SDAO arrived at the assumptions by using information from incidences and costs of cancer coverage in the health care system. The resulting impact was an estimated 350% increase in WC rates. CCIS has not yet determined the action they will take if the bill passes, however, CCIS staff plans to recommend that the Board of Trustees of CCIS increase the rate 234% to generate sufficient reserves to pay the expected cost of one claim, or approximately \$1.1 million. CCIS raised an additional concern that if the legislation passes, actuarial studies would need to be performed to re-evaluate reinsurance needs given the added risk factors associated with the new presumptions and that this could also impact WC rates. Both entities are also concerned with the implications associated with not having an end date for filing a WC claim. Absent this provision anyone who meets the presumption can file a WC claim at any time, even if they are currently not working as a firefighter. For example, an 85 year old firefighter who has been retired for 25 years, who meets the presumptions could file a claim.

The SDAO and CCIS have raised concerns that significant increases in WC rates could trigger an unfunded mandate. The office of Legislative Counsel indicates that the bill modifies WC presumptions, which does not create a requirement that a claim be compensated. It merely shifts the burden of proof from the claimant to the employer. Therefore, it is not clear whether the bill creates a mandate that might be subject Section 15, Article XI of the Oregon Constitution. However, if there were a different interpretation of the applicability of Section 15, Article XI of the Oregon Constitution, the constitution provides that if a measure is enacted by three-fifths vote of each house, the Assembly is relieved of the requirement to appropriate reimbursement for the local governments' additional expenditures, and the local government must comply.

Notwithstanding the foregoing analysis, the Legislative Fiscal Office is not rendering an opinion on whether Section 15, Article XI of the Oregon Constitution applies to SB 560.

DCBS indicates that the City of Portland is the only city with a separate disability and retirement system for firefighters that would be allowed to use Administrative Law Judges employed by the Workers' Compensation Board (WCB). The Department anticipates that the WCB will receive approximately six additional hearings per month, and that WCB can absorb this additional workload with existing resources.