



Senate Bill 860

Workers' Compensation - COVID-19 Occupational Disease Presumption - Public School Employees

MACo Position: **OPPOSE**

To: Finance Committee

Date: March 9, 2021

From: Drew Jabin

The Maryland Association of Counties (MACo) **OPPOSES** SB 860. This bill would expand the scope of presumption for workers' compensation claims for public school employees, therefore placing significant costs on school systems and county governments.

SB 860 would add COVID-19 as a compensable occupational disease for workers' compensation for paid public school employees, creating a nearly irrebuttable presumption that any affected employee should be compensated by the employer. Under state law, counties have no choice but to support these additional costs for county boards of education—competing for limited local funds against school construction, public safety, roadway maintenance, and other essential public services.

The bill's changes also essentially mean there would be no statute of limitations that would apply to these claims, creating the potential for exorbitant county costs and financial burden. This is because instead of the statute of limitations running two years from the date of being off from work, the statute runs two years from when the employee had actual knowledge that contraction of COVID-19 was due to their employment. Actual knowledge could extend the limitations by decades and has done so in many county cases under the heart-lung presumption and other occupational diseases.

The only way to rebut the presumption under this bill is to show "substantial evidence" that the employment was not a contributing cause. As a result, even if the claimant were out grocery shopping, attending parties, eating in restaurants, or engaging in any risky behavior (e.g., not wearing masks, not social distancing, travelling, etc.), the school system would still be responsible. It does not even matter if the employee can trace the diagnosis to a family member. These practical effects ultimately make the employer responsible and applies strict liability to the school system.

This legislation would create new, unbalanced laws to manage workplace COVID claims for education workers and would have potentially significant effects on county government finances, especially due to the retroactivity of the bill. Accordingly, MACo **OPPOSES** SB 860 and requests an **UNFAVORABLE** report.