ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2476

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2021

The Assembly Appropriations Committee reports favorably Senate Bill No. 2476.

This bill provides supplemental benefit payments to the dependents of essential employees who died in the course of employment due to the contraction of coronavirus disease 2019. The bill provides a cost of living adjustment (COLA) to the spouse or dependent's workers' compensation death benefit if that employee dies from the coronavirus. This adjustment is intended to mirror, to the extent possible, the COLA already in place for benefits for dependents of public safety workers killed in the line of duty.

The bill provides for the COLA to be an amount such that, when added to the workers' compensation weekly benefit rate initially awarded, the sum will bear the same percentage relationship to the maximum benefit rate at the time of the adjustment that the initial rate bore to the maximum rate at the time of the initial award, except that:

(1) the bill reduces the amount of the adjustment as much as necessary to ensure that the sum of the adjustment and the amount initially awarded does not exceed the amount which would cause any reduction of Social Security disability benefits;

(2) in cases which are not subject to the provisions of point one above, the bill reduces the supplemental workers' compensation benefits (but not regular workers' compensation) for claimants injured after 1979 by the amount of any Social Security benefits (other than Social Security disability benefits and any cost of living increases in Social Security benefits), Black Lung benefits, or the employer's share of disability pension payments received from or on account of an employer; and

(3) the bill requires that the COLA benefits will not be paid to any individual who elects to not receive benefits under the Federal Old Age, Survivors and Disability Insurance Act for which the individual is eligible.

These reductions parallel the reductions provided under current law for claimants who were injured before 1980. The bill also provides that no supplemental benefits will be paid in any case in which they are calculated to be less than $5 per week.

Under the bill, "essential employee" is defined as an employee in the public or private sector who, during a state of emergency:

(1) is a public safety worker or first responder, including any fire, police or other emergency responders;

(2) is involved in providing medical and other healthcare services, emergency transportation, social services, and other care services, including services provided in health care facilities, residential facilities, or homes;

(3) performs functions which involve physical proximity to members of the public and are essential to the public's health, safety, and welfare, including transportation services, financial services, and the production, preparation, storage, sale, and distribution of essential goods such as food, beverages, medicine, fuel, and supplies for conducting essential business and work at home; or

(4) is any other employee deemed an essential employee by the public authority declaring the state of emergency.

As reported by the committee, Senate Bill No. 2476 is identical to, Assembly Bill No. 3998, which also was reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in an indeterminate annual increase of State workers' compensation (WC) benefits paid out of the Second Injury Fund (SIF) to surviving dependents of essential employees who died in the course of employment due to the contraction of coronavirus disease 2019. The OLS notes, however, that Social Security benefits will reduce or even negate a qualified dependent's WC annual cost of living adjustment (COLA) under the bill. The OLS cannot forecast the annual expenditure increase given the uncertainty concerning reliability and validity of the available, limited, data and the severity of the coronavirus disease 2019 pandemic.

Any growth in SIF disbursements will trigger a corresponding SIF revenue increases. This is so because current law requires the Department of Labor and Workforce Development to calculate the SIF assessment for each upcoming calendar year according to a formula that incorporates expected benefit payments as a variable.

The SIF assessment is paid by employers that are WC and employer's liability insurance policyholders or that are self-insured, except that the assessment is not imposed on the State or any political subdivision thereof which acts as a self-insured employer. In New Jersey, an unknown number of political subdivisions do not self-insure and instead purchase WC insurance policies. These entities pay the SIF surcharge and will be subject to any SIF rate increase attributed to this bill.