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Bill: SB 860
Title: Workers' Compensation – Occupational Disease Presumptions – COVID-19 –
Public School Employees
Date: March 9, 2021
Position: Oppose
Committee: Senate Education, Health and Environmental Affairs Committee
Contact: Mary Pat Fannon, Executive Director, PSSAM

This emergency bill establishes that, under certain circumstances, certain public school employees are presumed to have an occupational disease that is compensable under workers' compensation law after a certain positive test or diagnosis for COVID-19; provides that a certain presumption may be rebutted with certain evidence; makes this presumption retroactive to March, 2020 and terminates this Act in 2022.

The Public Schools Superintendents' Association of Maryland (PSSAM), **opposes** SB 860.

Seventeen of Maryland's twenty-four school districts participate in the MABE Worker's Compensation Group Self-Insurance Fund "Fund," while the rest of the districts are self-insured. Regardless of how districts provide workers' compensation, the effect of this legislation would be the same – increased claims that are difficult to rebut, and a significant increase in the number of workers' compensation cases leading to increased costs for the school systems.

Public schools are not closed environments and with this worldwide pandemic, it is extremely difficult to pinpoint where an individual may have contracted COVID-19. This proposed presumption would be extremely detrimental to school systems, and in the most extreme of scenarios, could deter the re-opening of schools to limit potential risks and claims. This is clearly not in the public interest, but either is creating a nearly impossible refutable claim that an employee contracted COVID-19 in a school setting.

Unlike other occupational hazards associated with jobs identified in existing State law, COVID-19 is not unique to public school employees. Maryland law already provides provisions to cover compensable occupational disease and accidental injuries, and a school employee could make a claim under these existing provisions. This is a much more appropriate remedy for employees and school systems as opposed to the potential of paying for lifetime presumptive workers' compensation medical and indemnity benefits. Presumptive claims for COVID-19 through workers' compensation could lead to significant payments for hospitalization, medical treatment, prescriptions, temporary total disability, death, lifetime medical payments and permanency. For school systems, this could result in significant local budget increases for workers' compensation coverage for decades. For the funds themselves, the increase in high dollar claims would impact their ability to purchase reinsurance protection from catastrophic claims on the insurance marketplace. Lastly, this new inclusion could

lead to the depletion of reserves due to high claims costs and/or the inability to purchase reinsurance would impact the financial sustainability of workers' compensation funds.

Maryland superintendents and their local boards of education are working feverishly to provide for a safe and healthy return to schools for students and staff. Each school system follows strict federal, state and local health and safety guidelines. For employees who contract COVID-19, there are processes in place to assist those employees and their families. Additionally, schools take part in contact tracing and quarantining to help contain the spread within schools and communities.

We are all looking forward to a COVID-19-free future, and we know it will take us years to fully recover from the educational, emotional, and physical side effects from this pandemic. Including presumption claims for COVID-19 creates a lifetime, unaffordable option for schools and will shift funding from the classrooms to the courtrooms.

For the reasons noted above, PSSAM **opposes** Senate Bill 860 and requests an **unfavorable** committee report.