

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: HB2151

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Yancey

3. Committee: Commerce and Labor

4. Title: Employment; break to express breast milk.

5. Summary: Requires employers, including the Commonwealth and its political subdivisions, to provide reasonable unpaid break time each day to an employee who needs to express breast milk for the employee's infant child. An employer is exempt from this requirement if providing the break time would unduly disrupt its operations. An employer is also required to make reasonable efforts to provide a room or other location in close proximity to the work area, other than a toilet stall, where such an employee can express breast milk in privacy. Private employers that violate this measure are subject to a civil penalty.

6. Budget Amendment Necessary: Yes, Item 110 (HB1400/SB800). See Item 8, below.

7. Fiscal Impact Estimates:

7a. Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i> |
|--------------------|----------------|------------------|-------------|
| 2015 | | 0 | |
| 2016 | \$47,440 | 0 | GF |
| 2017 | \$47,440 | 0 | GF |
| 2018 | \$47,440 | 0 | GF |
| 2018 | \$47,440 | 0 | GF |
| 2020 | \$47,440 | 0 | GF |
| 2021 | \$47,440 | 0 | GF |

7b. Revenue Impact: Indeterminate.

8. Fiscal Implications: The above reflects the bill's anticipated impact to the Department of Labor and Industry for costs related to enforcing the provisions of this bill. Under the provisions of this bill, the Labor Law Division in the Department of Labor and Industry (DOLI) would have to begin enforcement July 1, 2015, and would need one additional half-time inspector to conduct inspections. The DOLI impact is for regulatory enforcement of the bill.

The Fair Labor Standards Act (FLSA) entitles non-exempt employees to breaks to express milk. This bill covers exempt employees not covered under FLSA. DOLI expects the agency will respond to inquiries and inspections for employees who are exempt from FLSA.

According to the Department of Human Resource Management, this bill should have no fiscal impact on state government agencies covered by the Virginia Personnel Act. State Policy already provides for reasonable break periods consistent with the definitions within this bill. Also, the Fair Labor Standards Act (FLSA) was amended by the Patient Protection and Affordable Care Act in March 2010 to require employers to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk. This bill is essentially the same as the FLSA amendments that agencies have had in place since at least 2010.

Civil penalties collected under this bill would be paid to the Commissioner for deposit into the general fund. The revenue impact is indeterminate, and would depend on the number of convictions.

Beginning in FY 2016, DOLI anticipates that an additional \$47,440 from the general fund, annually, to hire a wage employee to address the additional workload in the Labor Law Division.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Labor and Industry; Department of Human Resources Management; all state agencies; localities; court system.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.