Department of Planning and Budget
2018 Fiscal Impact Statement

1. **Bill Number:** HB1376

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

2. **Patron:** McQuinn

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 her nursing child for one year after the child's birth. The bill requires an employer to make reasonable efforts to provide a room or other location in close proximity to the work area, other than a bathroom, where the employee can express breast milk in privacy. An employer shall not be held to have violated these requirements if it has made reasonable efforts to comply with them. The measure applies to employees who are exempt under § 7 of the federal Fair Labor Standards Act (FLSA).The FLSA requires employers to provide such benefits for nonexempt employees.

6. **Budget Amendment Necessary**: Yes, Item 112 (HB30/SB30). See Item 8, below.

7. **Fiscal Impact Estimates:** Preliminary. See Item 8, below.

7a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2018	0	0	n/a
2019	$50,474	0	GF
2020	$50,474	0	GF
2021	$50,474	0	GF
2022	$50,474	0	GF
2023	$50,474	0	GF
2024	$50,474	0	GF

8. **Fiscal Implications:** The above reflects the bill's anticipated impact to the Department of Labor and Industry (DOLI) for costs related to enforcing the provisions of this bill. Under the provisions of this bill, the Labor Law Division in DOLI would have to begin enforcement July 1, 2018, and would need one additional half-time inspector to conduct inspections. DOLI's impact is for regulatory enforcement of the bill.

   The Fair Labor Standards Act (FLSA) requires employers of 50 or more employees to provide this protection for their employees and entitles non-exempt employees to breaks to express milk. This bill covers exempt employees not covered under FLSA. DOLI anticipates

that the agency will respond to inquiries and inspections for employees who are exempt from FLSA.

Beginning in FY 2019, DOLI anticipates that an additional $50,474 from the general fund, annually, will be required to hire a wage employee to address the additional workload in the Labor Law Division.

According to the Department of Human Resource Management, it is anticipated that this bill will not have a 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 consistent with the FLSA amendments that agencies have had in place since at least 2010.

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

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** HB1080 also provides for a reasonable unpaid break time each day to an employee who needs to express breast milk for her nursing child.