

Department of Planning and Budget 2019 Fiscal Impact Statement

1. **Bill Number:** HB2157

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

2. **Patron:** Plum

3. **Committee:** Commerce and Labor

4. **Title:** Minimum wage; increases to \$10.10 per hour effective January 1, 2020, etc.

5. **Summary:** Increases the minimum wage from its current federally mandated level of \$7.25 per hour to \$10.10 per hour effective January 1, 2020, unless a higher minimum wage is required by the federal Fair Labor Standards Act (FLSA). Effective January 1, 2022, the minimum wage shall be adjusted biennially to reflect annual increases in the consumer price index over the two most recent calendar years, as established by the Commissioner of the Department of Labor and Industry.. This bill also provides that the Virginia minimum wage applies to persons whose employment is covered by the FLSA and to persons employed by the Commonwealth, its agencies or political subdivisions, or a public body.

6. **Budget Amendment Necessary:** Yes, Item 112 (Department of Labor and Industry); Item 474 (Central Appropriations), and Item 303 (Department of Medical Assistance Services) HB1700/SB1100. See Item 8, below.

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

Expenditure Impact, Department of Labor and Industry:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	0	0	n/a
2020	\$257,616	5	GF
2021	\$515,231	5	GF
2022	\$515,231	5	GF
2023	\$515,231	5	GF
2024	\$515,231	5	GF
2025	\$515,231	5	GF

Expenditure Impact, Central Appropriations:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019	0	n/a
2020	\$814,246	General
	\$405,326	Nongeneral
2021	\$1,628,371	General
	\$810,125	Nongeneral
2022	\$1,628,371	General
	\$810,125	Nongeneral
2023	\$1,628,371	General
	\$810,125	Nongeneral
2024	\$1,628,371	General
	\$810,125	Nongeneral

2025	\$1,628,371	General
	\$810,125	Nongeneral

Expenditure Impact, Department of Medical Assistance Services:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019	0	n/a
2020	\$7,571,376	General
	\$7,571,376	Nongeneral
2021	\$15,229,780	General
	\$15,229,780	Nongeneral
2022	\$15,229,780	General
	\$15,229,780	Nongeneral
2023	\$15,229,780	General
	\$15,229,780	Nongeneral
2024	\$15,229,780	General
	\$15,229,780	Nongeneral
2025	\$15,229,780	General
	\$15,229,780	Nongeneral

- 8. Fiscal Implications:** The first table 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. The FY 2020 estimated fiscal impact reflects six months of anticipated costs. Estimates in each fiscal year thereafter reflect the anticipated full year cost.

The federal Department of Labor's Wage and Hour Division enforces the federal minimum wage laws. If the minimum wage in Virginia is raised above the federal minimum wage, the Labor Law Division in DOLI would have to begin enforcing the new minimum wage for Virginia employees beginning July 1, 2019.

Due to federal oversight of almost all employees in the state, the federal Department of Labor's Wage and Hour Division conducts inspections of alleged violations of the minimum wage laws and averages about 750 inspections per year. If this bill is approved and increases the minimum wage above the federal mandate, then the Commonwealth will be responsible for minimum wage compliance. DOLI anticipates it will have to conduct the same number of inspections as the federal Department of Labor's Wage and Hour Division (750 inspections per year). In order to meet this workload, DOLI will need five additional staff to enforce the increased minimum wage (four additional officer positions to conduct inspections and one assistant compliance officer to assist and support the inspection activities). DOLI's impact is for regulatory enforcement of the bill.

The second table above reflects the anticipated impact to state agencies based on the number of salaried employees and wage positions reflected in the Commonwealth's Personnel Management Information System (PMIS) as of December 31, 2018. PMIS data do not include information for certain state agencies, some authorities, and institutions of higher education that do not report personnel data in PMIS. Examples include salary data for the Judicial and Legislative agencies as well as the Virginia Port Authority, Virginia Tourism Authority, Virginia Economic Development Partnership, and the University of Virginia Medical Center. It also does not include wage data for the community colleges, Longwood University, the University of Mary Washington, Radford University, Christopher Newport University, and the Virginia Alcoholic Beverage Control Authority. The Virginia Alcoholic Beverage Control Authority is assessing the impact of this bill on its operations but has not yet determined if this bill will increase its payroll costs. Therefore, this estimate does not include potential impacts to state entities that do not report personnel data in PMIS. The general fund

and nongeneral fund shares of these estimates are based on actual FY 2017 expenditure data for salaried positions.

Based on data provided by the Department of Human Resource Management, the minimum wage increase that would be effective on January 1, 2020, would affect approximately 1,754 salaried and wage state employees, and would have a total expenditure impact of approximately \$1.22 million (from both general and nongeneral fund sources) in FY 2020, and \$2.44 million (from both general and nongeneral fund sources) in FY 2021 and each year thereafter. As any increase that may occur on January 1, 2022, is unknown, this impact statement reflects the continuation of the minimum wage at the amount this bill establishes as effective on January 1, 2020. These preliminary estimates are based on salaries as of December 31, 2018, for current state employees and do not account for the salary increases that have since been implemented or that will go into effect after that date. Additional benefit costs that would result from a minimum wage increase are not included. The proposed minimum wage adjustment would impact the state salary structure, and may result in additional future costs to mitigate compression, and address occupational and employee alignment.

Higher education institutions and the Virginia Department of Transportation (VDOT) historically have had a number of wage employees working for them. Based on a sampling of higher education institutions, the impact of the proposed minimum wage increase on wage labor costs will be noticeable by some but not all institutions. These impacts will vary by institution but likely will increase as the minimum wage rises to \$10.10, and then again as it is adjusted by the Consumer Price Index. For example, the minimum wage would need to increase to \$13.00 before the University of Virginia (UVA) and VDOT would notice a fiscal impact. Given this, the additional fiscal impact of these bills on wage labor costs at these entities will primarily fall into future biennia. Those costs are indeterminate at this time.

The third table above reflects the anticipated impact on the Department of Medical Assistance Services (DMAS) for mandated community-based personal care services provided to individuals through a number of waivers and the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program. These services are provided by personal care attendants who currently make, on average, \$11.93 per hour in northern Virginia and \$9.22 per hour in the rest of the state. A two percent increase will take effect on July 1, 2019, raising this rate to \$12.17 in northern Virginia and \$9.40 in the rest of the state. DMAS estimates that the Commonwealth utilizes 57,523,985 hours (statewide) of personal care services at a cost of approximately \$580 million annually. Should Virginia's minimum wage be increased above the rates currently paid to personal care attendants, then DMAS would be required to adjust the attendants' hourly wage accordingly. Using the personal care attendant hourly wage, as of July 1, 2019, and the estimated number of personal care service hours, the fiscal impact of potential minimum wage increases can be estimated by multiplying the hourly wage increase by the estimated number of hours paid. It should be noted that this estimate does not account for potential increases in the number of mandated personal care hours associated with new or existing waivers. Additionally, DMAS is still assessing the potential expense of paying FICA costs on behalf of personal care attendants. Any additional FICA expense is not included in this estimate.

HB 2157 raises the minimum wage to \$10.10 on January 1, 2020. Effective January 1, 2022, the minimum wage would be adjusted biennially to reflect annual increases in the consumer price index over the two most recent calendar years. Based on the methodology above, this would increase total Medicaid costs by \$15.1 million in FY 2020 (\$7.6 million general fund) and \$30.5 million (\$15.2 million general fund) in FY 2021. These estimates do not reflect the potential inflationary impact of adjusting the rates by the consumer price index, as required by the bill starting in 2022.

The Department for Aging and Rehabilitative Services (DARS) also contracts for personal attendant services for individuals with physical disabilities who require assistance from another person to perform non-medical activities of daily living. The agency estimates that these costs would rise as the state's minimum wage is increased since most of these individuals who provide these services make at or near the current minimum wage. While these services are not mandated, there would be an indeterminate impact on the agency's ability to maintain current service levels.

In addition to the impact on personal care service costs, increasing the state's minimum wage also would affect future Medicaid rates since these are partially driven by the cost of services. If a provider's costs change, that experience will ultimately be factored into future Medicaid rate setting processes.

While a specific fiscal impact on future Medicaid rates cannot be determined at this time, a minimum wage increase likely will lead to an increase in Medicaid rates, particularly those paid to long-term care facilities and other long-term care providers. Nursing facilities are heavily dependent on Medicaid as their primary source of revenue (in 2016, approximately 62 percent of total nursing facility bed days were attributable to Medicaid patients). Moreover, these facilities tend to utilize staff that make at or near the minimum wage. The Medicaid rate paid to nursing homes is based on costs experienced by the facilities and are rebased every three years, at which time any cost increases would be realized in the Medicaid rate. The next nursing home rebasing effective in FY 2021 is going to use calendar year 2018 cost data (the period before the effective date of any minimum wage increase). Therefore, it is expected that any increased costs would not be translated into Medicaid rates until FY 2024 when the nursing home rates are based on 2021 cost data. In addition, other long-term care providers such as agencies for personal care and respite, home health agencies, and hospice providers typically employ people at an hourly wage less than those proposed in this bill. Raising the minimum wage would put upward pressure on provider rates that in turn could necessitate an increase in managed care capitation payments.

DMAS is continuing to examine other potential fiscal implications from this bill. No estimates of these potential additional impacts are available at this time.

This bill may have fiscal impacts on state agencies that fund state-supported local employees. Any such costs are indeterminate; however, the most recent data from the Department of Social Services indicates that there are currently 22 full-time employees at local departments of social services (LDSSs) whose hourly rate is below \$10.10. The average annual wage for this group is about \$9.38 per hour. Using a rough estimate based on the current average hourly rate, the estimated future impact would be \$31,680 per year, total funds. ($\$10.10 - \$9.38 = \$0.72$; $\$0.72 * 22 \text{ employees} * 2000 \text{ hours} = \$31,680$). Of this amount, \$10,930 would be from the general fund, \$15,840 would be from federal funds, and \$4,910 would be from local matching funds. The cost for FY 2020 will be approximately half of the full amount, or \$15,840 total funds, because the bill's effective date for the first increase is January 1, 2020. Of this amount, \$5,465 would be from the general fund, \$7,920 would be from federal funds, and \$2,455 would be from local matching funds. These estimates do not reflect the potential inflationary impact of adjusting the rates by the consumer price index, as required by the bill starting in 2024.

Additionally, there are three part-time local employees averaging about \$8.53 per hour. Using the average hourly rate and increasing it to \$10.10 results in an estimated future impact of \$7,065 total funds ($[\$10.10 - \$8.53] * 3 \text{ employees} * 1500 \text{ hours}$). Of this amount, \$2,437 would be from the general fund, \$3,533 from federal funds, and \$1,095 from local matching funds. The cost for FY 2020 will be approximately half of the full amount, or \$3,533 total funds, because the bill's effective date for the first increase is January 1, 2020. Of this amount, \$1,219 would be from the general fund, \$1,766

would be from federal funds, and \$548 would be from local matching funds. Additionally, there may be some employees who are actually full-time but are split for accounting purposes between LDSS and another program. Impacts from any additional hours worked elsewhere are not reflected. These estimates do not reflect the potential inflationary impact of adjusting the rates by the consumer price index, as required by the bill starting in 2024.

In addition to the local departments of social services funded through the Virginia Department of Social Services, other agencies that fund state-supported local government employees include the Department of Juvenile Justice (DJJ) and the State Compensation Board (SCB). DJJ supports court services unit staff, and the SCB supports permanent positions in constitutional offices. Impact estimates to DJJ and SCB for affected employees are indeterminate. The Compensation Board does not establish specific wage levels for individuals or how local offices must use the funds received from the state. The funds are allocated as a lump-sum and can be reimbursed in whatever increments are expended by the local office each month up to the maximum budgeted amount.

Another area that receives state funds and may be impacted by this bill is public education, specifically wage labor and full-time positions that presently may be paid a wage lower than the prescribed minimum wage in the bill. Support positions such as bus drivers and janitorial staff may be impacted. Although any cost impact would initially fall directly on local governments, any increase in the costs of public education will translate into additional state support being required in the Direct Aid to Public Education budget in future biennia. Those costs are indeterminate at this time; however, any increase in prevailing costs would not impact the re-benchmarking costs of public education until the 2022-2024 biennium.

Finally, this bill may have indeterminate fiscal implications on agencies that employ contractors to the extent that the contractors are currently paid less than the minimum wage thresholds established in this bill. These indeterminate impacts may include labor costs associated with capital outlay projects.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Labor and Industry; Department of Human Resource Management; all state agencies; local school divisions and local governments.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.

Other similar minimum wage bills include HB1850, HB2157, and SB1017.