Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** SB426

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

2. **Patron:** Saslaw

3. **Committee:** Commerce and Labor

4. **Title:** Fair share fees.

5. **Summary:** This bill authorizes an employer, pursuant to an agreement between the employer and a labor union or labor organization, to require as a condition of employment any employee who is not a member of such labor union or labor organization and is a member of a collective bargaining unit, where the labor union or labor organization is the exclusive representative of the members of the collective bargaining unit, to pay a fair share fee to compensate the labor union or labor organization for the costs of representing the nonmember employee. The bill defines a "fair share fee" as the pro rata share of the portion of a labor union's or labor organization's dues attributable to activities stemming from its duty to represent all employees in a collective bargaining unit without regard to membership in the labor union or labor organization, including (i) the cost of all activities germane to collective bargaining, administration, and enforcement of collective bargaining agreements; (ii) representation of employees before public bodies in matters that are germane to either collective bargaining agreements or employer-employee relations; (iii) representation of employees during grievance procedures; and (iv) labor union or labor organization governance and administration. Under the bill, a fair share fee does not include the cost of any political activities, lobbying, organizing, charity, donations, or community service activities undertaken by the labor union or labor organization, and in no case will the fair share fee exceed 60 percent of dues required of a similarly situated member of such labor union or labor organization.

6. **Budget Amendment Necessary**: Indeterminate, see item 8.

7. **Fiscal Impact Estimates:** Indeterminate, see item 8.

8. **Fiscal Implications:** The proposed legislation establishes authority for certain employers to charge a “fair share fee” to its employees as described above. The Virginia Economic Development Partnership (VEDP) has raised concerns related to the impact this may have on its capacity to attract future business deals to the Commonwealth.

   The Virginia Economic Development Partnership (VEDP) has started to hear from site-selection consultants and some businesses that “fair share” is perceived as a proxy for “right to work” repeal. VEDP has outlined how prospective projects could be impacted if “fair share” legislation or an outright repeal of “right to work” were to be enacted.

According to VEDP, the “right to work” status of states represents an important site-selection factor for corporate executives and site-selection consultants who advise companies on selecting sites for new economic development projects. *Area Development* annually surveys corporate executives and site consultants on factors that impact location decisions. In its most recent survey published in 2019, more than 70% of corporate executives and more than 78% of site-selection consultants indicated it is “important” or “very important” for a state to have “right to work” for location decisions.

Site-selection consultants and businesses have communicated to VEDP that this change in policy would impact Virginia's competitiveness for economic development projects, primarily in the manufacturing and supply chain sectors. Prospects and site consultants typically want to know Virginia’s position on “right to work” early in the selection process. Many manufacturing prospects only will consider new locations in “right to work” states.

Over the previous 18 months, Virginia announced nearly 60 projects in the manufacturing and supply chain sectors that represented 8,400 jobs and $6 billion in capital investment. VEDP believes many of these announcements would not have occurred if Virginia were not a “right to work” state at the time the companies made their location decisions.

VEDP is currently working on 349 potential projects in the manufacturing and supply chain sectors with more than 37,000 total jobs and more than $11 billion in capital investment. Many manufacturing and supply chain companies and the site-selection consultants who serve them only will consider “right to work” states for new investments. That reality plus the long-held “right to work” status of Virginia means that, even in cases where VEDP may not be asked explicitly about “right to work,” companies and site consultants often have “right to work” status as a location requirement. In some cases, it also is stated explicitly during the selection process. Based on the feedback of site-selection consultants, VEDP's position is that Virginia's competitiveness for these potential projects will be compromised materially if “fair share” or an outright repeal of “right to work” were to advance.

Virginia is the northern most “right to work” state on the East Coast. States to the southern border represent the state's primary competition for economic development projects. This is especially true for manufacturers the state has attracted to smaller metro and rural areas. “Right to work” states include North Carolina, South Carolina, Georgia, Tennessee, and Alabama.

VEDP conservatively estimates that the implementation of “fair share” or an outright repeal of Virginia’s “right to work” status would result in the loss of new project announcements representing thousands of manufacturing and supply chain jobs, particularly in rural and small metro areas, and that the Commonwealth would lose approximately $9-25 million in state general fund revenue per year from the current prospect pipeline, a loss of revenue that would grow over time as Virginia is not considered for future projects or is not selected due to changes in its “right to work” status.

The Department of Labor and Industry (DOLI) indicates that it does not have enforcement responsibilities associated with this bill. DOLI anticipates that this bill will result in a workload impact related to fielding calls regarding the requirements provided in the bill, which can be absorbed.

Finally, it is not certain what impact a “fair share fee” may have on the cost of services procured by the Commonwealth. Changes in employee/employer relationships may result in changes to labor costs that would be passed to customers like the Commonwealth in contracts for services especially as it relates to capital construction projects and road building projects. Any cost impacts to the Commonwealth are indeterminate at this time.

9. **Specific Agency or Political Subdivisions Affected:** Virginia Economic Development Partnership, Department of Labor and Industry

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

11. **Other Comments:** None.