Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** SB481

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

2. **Patron:** Favola

3. **Committee:** Finance and Appropriations

4. **Title:** Earned paid sick time.

5. **Summary:** This bill requires public and private employers with 15 or more employees to provide those employees with earned paid sick time. The measure provides for an employee to earn at least one hour of paid sick leave benefit for every 30 hours worked. An employee shall not use more than 40 hours of earned paid sick time in a year, unless the employer selects a higher limit. Employees shall not be entitled to use accrued earned paid sick time until the ninetieth calendar day following commencement of their employment, unless otherwise permitted by the employer. The bill provides that earned paid sick time may be used (i) for an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care; (ii) to provide care to a family member under similar circumstances; (iii) when there is a closure of the employee's place of business or the employee's child's school or place of care due to a public health emergency; or (iv) when an employee's or employee's family member's presence in the community may jeopardize the health of others because of their exposure to a communicable disease. The bill authorizes the Commissioner of Labor and Industry, in the case of a knowing violation, to subject an employer to a civil penalty not to exceed $150 for the first violation, $300 for the second violation, and $500 for each successive violation, if the second or successive violation occurs within two years of the previous violation. The Commissioner of Labor and Industry may institute proceedings on behalf of an employee to enforce compliance with this measure and to collect specified amounts from the employer, which shall be awarded to the employee. Alternatively, an aggrieved employee is authorized to bring a civil action against the employer in which he may recover double the amount of any unpaid earned sick time and the amount of any actual damages suffered as the result of the employer's violation. The measure has a delayed effective date of January 1, 2021.

6. **Budget Amendment Necessary**: Yes, Item 120 HB30/SB30, see Item 8.

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

7a. Expenditure Impact:

Fiscal Year	***Dollars***	***Positions***	***Fund***
2020	N/A	N/A	N/A
2021	350,145	5	GF

2022	500,290	5	GF
2023	500,290	5	GF
2024	500,290	5	GF
2025	500,290	5	GF
2026	500,290	5	GF

8. **Fiscal Implications:** It is anticipated that this bill will result in an expenditure impact to the Department of Labor and Industry (DOLI). DOLI indicates that its Labor Law Division would require four additional compliance officer positions to conduct inspections and one assistant compliance officer to assist and support the inspection activities. Currently, there is no law on paid leave in Virginia. Based on the number of payment of wage claims (1,250) received by the Labor Law Division and the number of minimum wage claims (750) conducted by DOLI's Federal Wage and Hour Division, the agency anticipates receiving between 600 to 900 claims on paid medical leave. In addition, DOLI would be required to upgrade its labor law software to include this new enforcement responsibility. The agency's most recent software upgrade was to accommodate child labor enforcement, which resulted in a $100,000 expenditure impact. As such, DOLI anticipates that a minimum of $100,000 will be required to upgrade the software to include paid sick leave enforcement.

   HB30/SB30, as introduced, provides $206,093 and two positions in each year from the general fund to support the enforcement of the state's labor laws. As stand-alone legislation, DOLI anticipates that the funding and positions provided in HB30/SB30 will be sufficient to support a portion of the staffing needs associated with this bill, and a budget amendment for $144,052 in FY 2021 and $294,197 in each fiscal year thereafter to support the remaining portion of IT and staffing needs anticipated by DOLI to implement the provisions of the bill would be necessary.

   According to the Department of Human Resource Management (DHRM), current leave benefits for salaried employees exceed the bill's requirements and are not expected to be impacted by the bill. However, the bill is expected to impact state wage employees, which do not currently received sick leave benefits. Any potential impact on wage employee costs is indeterminate and would depend on whether the workload of wage employees using sick time is capable of being absorbed by the agency or would require the agency to pay for additional staff time.

   Human Resources Technology Infrastructure

   Impacts to the Commonwealth's technology infrastructure are expected to occur for systems that manage time, labor, payroll, and benefits offered. Currently, there is no leave accrual system in place for wage employees and the methodology of leave accrual required by the bill differs from that currently in place for salaried employees.

   Impacts to the Commonwealth's technology infrastructure are expected to occur for systems that manage time, labor, payroll, and benefits offered. Currently, there is no leave accrual system in place for wage employees and the methodology of leave accrual required by the bill differs from that currently in place for salaried employees.

The Commonwealth is currently in the process of developing the new statewide Cardinal Human Capital Management (HCM) system, which is expected to be deployed by October 2021. Any immediate changes as a result of this legislation prior to implementing and deploying the new Cardinal HCM system are not feasible without significant risk and cost to the current project and its timeline. The new HCM system is replacing outdated, unsustainable legacy systems whose age and unsupported technology threaten daily operations.

The Department of Human Resource Management's Personnel Management Information System (PMIS), which includes a Time, Attendance, and Leave (TAL) subsystem, in addition to the Department of Account's central payroll and leave system, CIPPS, will be decommissioned and are expected to be replaced by the new Cardinal HCM system in October 2021, based upon the current project schedule. Technology staff are currently dedicated to day-to-day operational systems maintenance and critical Cardinal transition tasks; labor-intensive system reconfigurations to these outdated, legacy systems (PMIS, TAL, and CIPPS) have been discontinued. Therefore, the systems changes that would be necessary to implement this legislation cannot be implemented to PMIS, TAL or CIPPS and need to wait until the new Cardinal HCM system is implemented.

Costs to implement necessary Cardinal HCM system changes after the planned transition to the new system are estimated to be approximately $2.0 million and changes are not expected to be capable of being implemented until January 2023. Cardinal HCM operates as an internal service fund and is supported by revenue from charges assessed to user-based state agencies. Any additional costs to Cardinal HCM would be expected to be recovered through the charges assessed to those state agencies. The state impact is estimated to come approximately 50 percent from the general fund and 50 percent from nongeneral fund sources, based on the portion of agencies' salary expenditures paid from the general fund in fiscal year 2019, which was used to determine the fund split for agency Cardinal HCM charges funded in HB/SB30.

Implementation of the sick leave requirements prior to the Cardinal updates may potentially be feasible through a manual, off-system means. However, an off-system process would be expected to present a workload burden on most agencies and in addition to posing risks of large error rates, according to the Department of Human Resource Management. The impact of a manual process on agency workloads and the Department of Human Resource Management is indeterminate and would depend on the number of wage positions for which paid sick leave would be required to be tracked by agencies. For context, the Department of Human Resource Management's January full time-equivalent (FTE) report included over 26,000 FTE wage positions statewide. This report included seven agencies with over 1,000 FTE wage employees, 47 agencies with 50 or more and a maximum of 5,201 at one institution of higher education.

In addition to the statewide systems already discussed, there are also multiple state agencies that use their own systems for time, labor, payroll and benefits, some that have been purchased with general fund appropriations and others that have been purchased with state nongeneral fund or federal fund revenues. A cost estimate for the impact to these agencies is currently indeterminate.

The Office of the Attorney General (OAG) does not anticipate a fiscal impact as a result of this bill, as it would refer cases to DOLI.

Additionally, the bill establishes several civil penalties, including $100 for failure to post a written notice describing the benefits offered under this program; and, $150 for the offense of knowingly violating the provisions of the bill, $300 for the second violation, and $500 for each successive violation. Any revenue is deposited to the general fund. The amount of any such revenue is indeterminate.

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

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

11. **Other Comments:** None.