

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB662

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

2. Patron: Boysko

3. Committee: Commerce and Labor

4. Title: Employee misclassification; retaliatory actions prohibited; civil penalty.

5. Summary Prohibits an employer from discharging, disciplining, threatening, discriminating against, or penalizing an employee or independent contractor because the employee or independent contractor reported or plans to report that an employer or any officer or agent has failed to properly classify an individual as an employee and failed to pay required benefits or other contributions. The measure also prohibits such actions against an employee or independent contractor who is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action. These prohibitions apply only if an employee or independent contractor acts in good faith and upon a reasonable belief that the information is accurate. The measure authorizes the Commissioner of Labor and Industry to institute proceedings against an employer who has taken such prohibited retaliatory action. Available remedies include reinstatement of the employee and recovery of lost wages. An employer that violates these provisions is subject to a civil penalty equal to the employee's lost wages.

6. Budget Amendment Necessary: No, see item 8, below.

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

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020	N/A	N/A	N/A
2021	\$206,093	2	GF
2022	\$206,093	2	GF
2023	\$206,093	2	GF
2024	\$206,093	2	GF
2025	\$206,093	2	GF
2026	\$206,093	2	GF

8. Fiscal Implications: DOLI indicates that its Labor Law Division would require two investigators as a result of this bill. Currently, DOLI's Labor Law Division does not conduct the activities provided in the bill, however, the division receives 50 to 75 inquiries annually regarding worker misclassification, which are forwarded to the Virginia Employment Commission (VEC), and an additional 180-200 claims that deal with independent contractor

issues. DOLI indicates that last year, VEC closed 807 cases of worker misclassification. DOLI anticipates that it will receive a minimum of 350 complaints about the actions taken by employers that are prohibited in this bill.

The introduced budget, HB30/SB30, 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 the staffing needs associated with this bill; however, if an unusually large number of bills impacting DOLI are enacted the agency may require additional resources.

Violation of the provisions of this bill is subject to a civil penalty, which will be paid to the Literary Fund.

9. Specific Agency or Political Subdivisions Affected: Department of Labor and Industry.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is the companion to HB 1199.