

Commission on Local Government

Estimate of Local Fiscal Impact

2020 General Assembly Session: Special Session I

Bill: SB5076

Patron: Favola

Date: 8/25/2020

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Paid sick time. Requires public and private employers to provide eligible employees paid sick time that can be used during a pandemic. The bill requires employers to provide all full-time and part-time employees with paid sick time if the Governor has declared a state of emergency in response to a communicable disease of public health threat. The bill provides that such paid sick time is available for immediate use by the employee, regardless of how long the employee has been employed by the employer and does not count toward the employee's paid sick time use or accrual limit. The bill provides that such paid sick time may be used for (i) an eligible employee's illness or health condition related to the communicable disease of public health threat; an eligible employee's need for medical diagnosis, care, or treatment of an illness or health condition related to the communicable disease of public health threat; or an eligible employee's need for preventive medical care related to the communicable disease of public health threat; (ii) care of a family member with an illness or health condition related to the communicable disease of public health threat; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness or health condition related to the communicable disease of public health threat; or care of a family member who needs preventive medical care related to the communicable disease of public health threat; or (iii) closure of the eligible employee's place of business by order of a public official due to the communicable disease of public health threat or an eligible employee's need to care for a child whose school or child care provider is closed or unavailable due to the communicable disease of public health threat, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the eligible employee's or family member's presence in the community may jeopardize the health of others because of his exposure to the communicable disease of public health threat, whether or not the eligible employee or family member has actually contracted the communicable disease.

The bill provides for full-time employees to earn up to 40 additional hours of paid sick time. Employees earn such sick time at a rate of one hour of paid sick leave benefit for every 30 hours worked. An employee is prohibited from earning or using more than 40 hours of

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**Executive Summary:**

Localities have evaluated a negative fiscal impact ranging from \$0.00 - \$2,135,702.00. A majority of localities responded with a cost and noted that the cost of the unfunded mandate would be related to additional paid sick leave for eligible employees. The locality that provided the highest cost noted that their estimated cost is based on the 100% utilization of provided leave by all employees. Of those localities that responded with no cost, they noted that the cost of the bill is indeterminate but significant or they already comply with the requirements of the bill.

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**Local Analysis:**

**Locality:** City of Alexandria

**Estimated Fiscal Impact:**  
\$1,000,000.00

The City of Alexandria's COVID-19 related leave policy aligns with the key points listed within this bill. However, the language in the bill does not identify an end date. If the City ends its COVID-19 leave policy and the bill's requirements remain in effect then this legislation would have a significant financial impact on the City of Alexandria.

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Locality: City of Harrisonburg

Estimated Fiscal Impact: \$0.00

Unable to determine cost but would be significant including the cost of administering. The City currently provides either sick leave or PTO to its employees and provided additional time off for some of the reasons described in the legislation beginning at the outset of the current pandemic. Consideration should be made for some type of mechanism to exempt certain positions such as public safety and 24 hour services. There are certain essential services that local government provides that would be very difficult to provide if a substantial number of these employees used this type of sick leave at the same time. A local government is unable to hire on a short-term basis these types of positions without extensive training.

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**Locality:** City of Manassas

**Estimated Fiscal Impact:**  
\$1,300,000.00

The maximum liability for the City of Manassas to provide 80 hours of paid sick time for a health pandemic as described in Section 40.1-33.4 of the bill is \$1.3 million. This assumes that all employees meet the criteria in the bill and will use all 80 hours of this leave.

The City of Manassas provides paid time off of more than 40 hours per year so we satisfy the requirements of Section 40.1-33.5 and there is no additional expense.

It is not clear to us in the reading of this bill if this language is in addition to current federal requirements to provide this type of leave. There are also concerns that the provisions proposed in Section 40.1-27.4 could, albeit in rare circumstances, mandate unpaid sick leave longer than the federal requirements of the Family and Medical Leave Act (FMLA).

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Locality: City of Martinsville

Estimated Fiscal Impact: \$100,000.00

Once again, a tough number to arrive at, but at a minimum, I believe this would cost the City around \$100,000 on average. This is based on a low-range salaried position, using the full 40 hours leave, plus the corresponding benefits as currently calculated. I believe \$100,000 is a reliable number, and may actually be where we are by the end of December 2020. What I don't like is that the governor can decide what's the "public health threat." Does that mean for a severe flu season, localities will be at risk for giving unearned time to employees who may or may not be actually ill, exposed to the illness, or caring for a child, etc., based on a governor's decision? Is there any punitive actions included in this legislation that will allow the locality to recover funds paid out to dishonest employees, and yes, we've already experienced that - or are we obligated to provide funds simply because the governor deems it necessary? Where is the oversight? Feels very subjective to me and politically charged. Once again, vague legislation that will penalize the localities who are already suffering from lack of funds.

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**Locality:** City of Norfolk

**Estimated Fiscal Impact:**  
\$1,000,000.00

The City of Norfolk projects current sick leave costs to reach approximately \$600,000 due to the pandemic. While the bill would be expected to increase costs, it is difficult to determine the usage of the paid sick time as any future communicable diseases could have varying infection, ailment, and hospitalization rates.

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Locality: City of Virginia Beach

Estimated Fiscal Impact: \$0.00

The City of Virginia Beach meets and exceeds the provisions of this proposed legislation. As a result of the current pandemic, we have adopted a series of emergency public health leaves in accordance with federal guidelines that arose out of Congressional action in the spring. These leaves are authorized and effective for any "Communicable Disease of Public Health Threat" made by the State Health Commissioner under authority granted in Section 32.1-48.05. This bill links the leave to the Governor's powers, but these powers in 44-146.17 are linked to the aforementioned underlying powers of the State Health Commissioner; therefore, the City's existing policy would be instituted prior or concurrent with this bill's required timing.

With respect to ordinary paid sick time, the City's Paid Time Off Policy would satisfy the bill's requirements under the proposed 40.1-33.5.(G).

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**Locality:** Prince George County

**Estimated Fiscal Impact:** \$273,000.00

It is unclear if this additional leave time is in addition to any federal leave granted for the same public health threat (Federal Families First Coronavirus Response Act enacted 4/1/2020). The dollar value of granting 40 hours of additional paid leave for eligible employees [40 hours X employee's hourly rate] exceeds \$273,000 for Prince George County.

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Locality: Rockingham County

Estimated Fiscal Impact:
\$2,135,702.00

This would bill would have a very large financial impact on the County and our County Schools. The total fiscal impact if all employees used this provided leave would exceed \$2 Million.

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**Locality:** Town of Blacksburg

**Estimated Fiscal Impact:** \$600,000.00

Based on the amount of leave granted under this state of emergency. This calculated for leave granted above the employee's normal sick leave accruals. Our employees earn two hours for every 40 hours worked for regular sick leave so their is no fiscal impact for that part of the bill.

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Locality: Town of Luray

Estimated Fiscal Impact: \$75,000.00

This unfunded mandate should only be passed if the State will provide funding to fulfill the required sick leave.

We currently allow employees to accrue and retain sick leave for future need.

Part-time help is paid for the work that they perform.

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**Locality:** Town of Marion.

**Estimated Fiscal Impact:** \$100,000.00

Could provide significant financial impact and lessening of services

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