

Department of Planning and Budget 2023 Fiscal Impact Statement

1. **Bill Number:** SB 886

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

2. **Patron:** Surovell

3. **Committee:** Passed the Senate

4. **Title:** Paid sick leave; health care providers and grocery store workers

5. **Summary:** Requires employers to provide paid sick leave to health care providers and grocery store workers. Under current law, employers are only required to provide paid sick leave to certain home health workers. The bill removes requirements that workers work on average at least 20 hours per week or 90 hours per month to be eligible for paid sick leave. The bill provides that certain health care providers may waive their right to accrue and use paid sick leave and provides an exemption for employers of certain other health care providers. The bill exempts grocery store employees of employers with fewer than 25 employees. The bill requires the Department of Labor and Industry to develop guidelines for retail employers that sell groceries to provide sick leave and to publish such guidelines by December 1, 2023. The provisions of the bill other than the requirement for the Department of Labor and Industry to develop guidelines have a delayed effective date of January 1, 2024.

6. **Budget Amendment Necessary:** Yes, Items 304 and 365 of SB800/HB1400.

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

7a. Expenditure Impact, Department of Labor and Industry: Item 365

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	\$56,305	1	General
2025	\$112,610	1	General
2026	\$112,610	1	General
2027	\$112,610	1	General
2028	\$112,610	1	General
2029	\$112,610	1	General
2030	\$112,610	1	General

7b. Expenditure Impact, Department of Medical Assistance Services: Item 304

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>	<i>Dollars</i>	<i>Fund</i>
2024	373,049	GF	406,496	NGF
2025	917,701	GF	999,981	NGF
2026	940,643	GF	1,024,981	NGF
2027	964,159	GF	1,050,605	NGF
2028	988,263	GF	1,076,870	NGF
2029	1,012,970	GF	1,103,792	NGF
2030	1,012,970	GF	1,103,792	NGF

- 8. Fiscal Implications:** This fiscal impact estimate is preliminary. It is anticipated that this bill will have a general and nongeneral fund expenditure impact.

Department of Labor and Industry

The Department of Labor and Industry (DOLI) would be responsible for enforcement of this bill. The Labor Law Division would need one additional compliance officer position to conduct the inspections required under this legislation. Currently, the paid leave law applies only to a limited number of customer directed home health care workers which has led to few claims as the Department of Medical Assistance Services monitors this program. DOLI estimates that 220,000 workers in the healthcare and grocery store field will produce about 90 complaints based on the number of payment of wage cases DOLI receives from employees in the state. DOLI also anticipates a significant number of inquiries about paid sick leave. The requirement to create guidance for the grocery store owners can be absorbed with existing resources. The estimated general fund expenditure impact is \$56,305 in FY 2024 and \$112,610 beginning in FY 2025.

Department of Corrections

According to the Department of Corrections, 94 wage medical provider positions would be impacted by this bill at an estimated general fund cost of \$206,200 annually. It is anticipated that this cost can be absorbed within existing appropriations.

Department of Medical Assistance Services

According to the Department of Medical Assistance Services (DMAS), this bill would impact Medicaid expenditures directly, through consumer-directed attendant care, and indirectly through other service areas. In the consumer-directed model of care, the Medicaid members select their personal care, respite or companion care attendants and the Medicaid program pays for the wages of the attendant, plus appropriate employer taxes and benefits. Currently, home health care workers who are consumer directed attendants and who work more than twenty hours a week receive one hour of sick leave for every thirty hours worked, with a maximum of forty hours per year. This bill removes the requirement that home health care workers work on average twenty hours or more a week to qualify for accruing sick leave hours.

DMAS estimates that 7.2 percent of the current hours worked do not qualify for accruing sick leave because the attendant works less than twenty hours per week. DMAS assumes that billable rates would need to be raised by 0.24 percent, as calculated by one hour for every thirty, multiplied by 7.2 percent. Attendants who work less than twenty hours a week would not reach the forty hours per year limit. DMAS expects to pay \$780 million in consumer-directed care in fiscal year 2024. With a one-month payment lag from a start date of January 1, 2024, this rate increase is estimated to cost \$0.8 million (\$373,049 from the general fund) in fiscal year 2024 and \$1.9 million (\$917,701 from the general fund) in fiscal year 2025.

The bill also expands paid sick leave requirements to include health care providers as defined in § 8.01-581.1, Code of Virginia. This provision of the bill may increase provider costs.

DMAS assumes reimbursement rates would not be adjusted directly to reflect these increases. However, some providers are paid based on costs, so there may be increases in expenditures in out years. There is not sufficient data to estimate the effect of these factors, so the associated fiscal impact is indeterminate at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Labor and Industry, Labor Law Division, Department of Corrections, Department of Medical Assistance Services

10. Technical Amendment Necessary: No

11. Other Comments: HB 2087 also relates to the provision of paid sick leave for healthcare and grocery store employees.