

Department of Planning and Budget 2012 Fiscal Impact Statement

1. Bill Number: SB816

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

2. Patron: McEachin, A. D.

3. Committee: Finance

4. Title: Payment of wages to employees; requires employers to maintain and preserve certain records.

5. Summary: The bill requires employers to maintain and preserve records regarding the rate of pay, hours worked, earnings due, wages paid, and related matters for each employee. The measure provides a standard for how an employee, in an action to collect unpaid wages, may meet his burden of establishing that he is entitled to the wages. The measure also amends an employee's existing private right of action for unpaid wages by requiring the court to award attorney fees and other costs to a prevailing employee. In such a proceeding, unless the employer shows good faith, the court shall award to the employee three times the amount of unpaid wages. An action for unpaid wages shall be commenced within two years after the action accrued, or within three years if the violation is willful.

6. Budget Amendment Necessary: Yes, Item 115 of SB800. See #8 below.

7. Fiscal Impact Estimates: Preliminary. See #8 below.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2013	0	0	
2014	\$401,139	6	General Fund
2015	\$401,139	6	General Fund
2016	\$401,139	6	General Fund
2017	\$401,139	6	General Fund
2018	\$401,139	6	General Fund
2019	\$401,139	6	General Fund

7b. Revenue Impact: None.

8. Fiscal Implications: The bill would create an administrative function requiring the Department of Labor and Industry (DOLI) to develop regulations regarding an employer's retention of payroll data and to investigate and review the sworn testimony of claimants. According to DOLI, the investigation and review of sworn testimony would require the restoration of funding for positions dedicated to the administration of payment of wage claims.

As part of budget reductions enacted by the 2012 General Assembly, the department's Payment of Wage Section of the Labor and Employment Law Division was eliminated. According to DOLI, re-establishing this section will require an additional \$401,139 and six positions from the general fund. The unit was responsible for the administrative appeals provided for in Section 40.1-29, Code of Virginia.

The department anticipates the salaries and fringes for the six employees required to enforce this proposed legislation total \$336,380, with additional support costs of \$64,759 for a total annual cost of \$401,139. The employees will be needed July 1, 2013, to begin enforcement of the statute.

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

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is identical to HB1729.

Date: 1/15/12

Document: G:\Legislation\2013 Session\FIS\SB816.docx