REVISED 1/24/17

Department of Planning and Budget
2017 Fiscal Impact Statement

1. **Bill Number:** HB2126

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

2. **Patron:** Levine

3. **Committee:** Commerce and Labor

4. **Title:** Family and Medical Leave Insurance Program.

5. **Summary:** Entitles individuals to a family and medical leave insurance (FMLI) benefit payment for each month they are engaged in qualified caregiving, not to exceed 60 qualified caregiving days per year. Qualified caregiving means an activity, except regular employment, for a reason an individual is entitled to leave under the federal Family and Medical Leave Act of 1993. Benefits would amount to 66 percent of an individual's monthly wages, based on highest annual earnings from the prior three years, up to a capped monthly amount, and would be indexed to the national average wage index. If a person takes the maximum number of days, the benefits would range from a minimum benefit of $580 to a maximum benefit of $4,000 per month in the program's first year. To be eligible for benefits, an individual is required to (i) be insured for disability insurance benefits under the Social Security Act at the time his application is filed; (ii) have earned income from employment during the 12 months before filing the application; (iii) have filed an application for a FMLI benefit; and (iv) have been engaged in qualified caregiving, or anticipate being so engaged, during the 90-day period before the application is filed or within 30 days thereafter. The measure establishes the Family and Medical Insurance Leave Fund and requires FMLI benefit payments to be made only from this Fund. A tax of 0.2 percent is imposed on the wages received by every individual, and an excise tax of 0.2 percent of the wages paid in any calendar year by the employer with respect to their employment is imposed on employers. The measure has a delayed effective date of January 1, 2018.

   This revised fiscal impact estimate reflects the provision of the bill allowing for the payment of costs incurred in administering the Fund from the Fund (line 195).

6. **Budget Amendment Necessary**: Yes. A new item would need to be established under the Virginia Employment Commission.

7. **Fiscal Impact Estimates:** Preliminary.

   7a. Expenditure Impact: (to VEC to manage the program)

Fiscal Year	*Dollars*	*Positions*	*Fund*
2017	$0	0	n/a
2018	$7,000,000	125	NGF
2019	$14,000,000	125	NGF

2020	$14,000,000	125	NGF
2021	$14,000,000	125	NGF
2022	$14,000,000	125	NGF
2023	$14,000,000	125	NGF

7b. Expenditure Impact: Family and Medical Insurance Fund

Fiscal Year	*Dollars*	*Positions*	*Fund*
2017	$0	0	n/a
2018	$309,600,000- $377,000,000	0	NGF
2019	$627,600,000	0	NGF
2020	$627,600,000	0	NGF
2021	$627,600,000	0	NGF
2022	$627,600,000	0	NGF
2023	$627,600,000	0	NGF

7c. Revenue Impact: Family Medical Insurance Fund

Fiscal Year	*Dollars*	*Fund*
2017	$0	NGF
2018	$309,600,000- $377,000,000	NGF
2019	$609,200,000- $744,000,000	NGF
2020	$609,200,000- $744,000,000	NGF
2021	$609,200,000- $744,000,000	NGF
2022	$609,200,000- $744,000,000	NGF
2023	$609,200,000- $744,000,000	NGF

8. Fiscal Implications: It is anticipated that this bill will have a nongeneral fund expenditure and nongeneral fund revenue impact. The bill establishes a new program, the Family and Medical Leave Insurance Program, to be administered by the Virginia Employment Commission (VEC). Currently, VEC provides temporary income support from funds derived from a tax paid by state employers to the Unemployment Insurance Trust Fund. Similarly, this establishes the Family and Medical Insurance Fund to be comprised of an employee and employer tax. All funds collected shall be deposited to the Fund to be used solely for the purposes of paying family and medical leave insurance benefits to individuals and for administration of the Fund. Although the bill provides that expenses for administering this program may be paid from funds that may be made available by the federal government under Title III of the Social Security Act, or in the event that is not possible, then administrative expenses are to be paid from the employment administration account or fund in which funds granted under Title III are deposited, VEC indicates that the United States Department of Labor has indicated that such federal funds cannot be used toward the administration of the Family and Medical Leave Insurance Program.

Similar to the current unemployment insurance program, VEC anticipates to fully implement this program an additional $14 million and 125 positions will be required, annually. The bill has a delayed effective date of January 1, 2018, so the FY 2018 estimate reflects six months of anticipated expenditures, including one-time costs for systems development, equipment, and furnishings. The bill provides for the payment expenses incurred in the administration of the Fund from the Fund, in addition to benefits for recipients.

The bill establishes an employee and employer tax, and directs VEC to collect the tax. The new employee tax is to be equal to 0.2 percent of the wages received by an individual with respect to employment; the new employer tax is to be equal to 0.2 percent of the wages paid in a calendar year by the employer with respect to their employment. The revenue collected pursuant to these new taxes is to be deposited to the Fund. According to VEC, the estimated revenue for this fund could be between $609.2 million and $744.0 million depending on its definition of taxable wage base and whether or not every employee and employer is assessed the tax, or just taxable employers. Because the program would begin in the middle of FY 2018, revenue for FY 2018 is estimated to be approximately one- half of the anticipated annual revenue.

According to the U.S. Department of Labor, 13.2 percent of eligible employees use Family and Medical Leave Insurance in a year. Based on an estimate of Virginia's eligible employees, VEC anticipates that of those employees who use Family and Medical Leave Insurance, approximately 118,000 per year would do so for caregiver related activities. Using Virginia's average wages, the estimated annual benefits for those individuals could be $627.6 million. The first year of implementation reflects only half of the annual amount because the bill does not take effect until January 1, 2018.

Any impact this bill may have on the Department of Human Resources Management (DHRM) or state agencies is indeterminate at this time. However, DHRM anticipates administering this program for state agencies may require additional investment in information technology.

9. **Specific Agency or Political Subdivisions Affected:** Virginia Employment Commission, court system.

10. **Technical Amendment Necessary:** Possibly, the bill notes two different program titles: the Family and Medical Insurance Leave program and the Family and Medical Leave Insurance program.

11. **Other Comments:** None.