

## Department of Planning and Budget 2018 Fiscal Impact Statement

**1. Bill Number:** HB653

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

**2. Patron:** Murphy

**3. Committee:** Commerce and Labor

**4. Title:** Employers; sexual harassment training; penalty.

**5. Summary:** Requires every employer with 15 or more employees who are located at a workplace within the Commonwealth to conduct a sexual harassment education and training program for all new employees within one year of commencement of employment. The training shall encompass the illegality of sexual harassment; the definition of sexual harassment under state and federal laws and federal regulations; a description of sexual harassment, utilizing examples; the employer's sexual harassment complaint process available to the employee; legal recourse and complaint processes; and protections against retaliation. Such employers are also required to conduct additional training for all supervisors and managers within one year of assuming their supervisory or managerial positions. The Department of Labor and Industry is required to develop a compliance checklist for employers to use to develop a sexual harassment training program; employers shall keep a record of the training. Any employer who violates these requirements is subject to a civil penalty not to exceed \$100 for each violation.

**6. Budget Amendment Necessary:** Yes, Item 112 (HB30/SB30). 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>
2018	0	0	n/a
2019	\$106,465	1.0	GF
2020	\$103,071	1.0	GF
2021	\$103,071	1.0	GF
2022	\$103,071	1.0	GF
2023	\$103,071	1.0	GF
2024	\$103,071	1.0	GF

**8. Fiscal Implications:** It is anticipated that this bill will have an expenditure impact to the Department of Labor and Industry (DOLI) and an indeterminate general fund revenue impact. DOLI does not currently enforce any sexual harassment provisions or have any expertise in this area. Currently, the only enforcement avenue for sexual harassment claims is through the Equal Employment Opportunity Commission (EEOC). DOLI's Labor Law division refers all of the 2,500 calls it receives regarding sexual harassment directly to EEOC

for resolution. It is unknown how many additional employees with sexual harassment claims contact EEOC directly. Each of those individuals would potentially have a claim with DOLI if their employer did not meet the requirements of the bill.

Since DOLI does not currently enforce any sexual harassment provisions, DOLI made assumptions in estimating the possible number of complaints the agency would receive and the number of complaints that would need investigation based on its experience with wage claims and safety and health discrimination cases. The main work that DOLI does in employee claims is with wage claims and child labor investigations.

Based on DOLI's experience with wage claims and safety and health discrimination cases, DOLI estimates that five to 10 percent of the claims involving sexual harassment will include a training element that the agency would have to investigate in relation with the agency's other screening experiences. Additionally, DOLI will have to make inquiries about the sexual harassment training the caller received or did not receive which will increase the amount of time DOLI will need to spend on each of these claims. It is anticipated that DOLI would need an additional officer position to investigate sexual harassment training claims and respond to inquiries about the new sexual harassment training requirements. The estimated cost of the position is \$103,071, from the general fund.

Additionally, this bill requires DOLI to produce a compliance checklist that employers can use in developing their training on the illegality of sexual harassment. Since DOLI does not have any expertise on sexual harassment issues, DOLI would need to hire a contractor to produce the checklist at an estimated one-time general fund cost of \$3,394 in FY 2019. This one-time cost is for two weeks for a Classification/Compensation Consultant from the Virginia State Contract for Temporary Services.

This bill may have a general fund revenue impact as the bill authorizes DOLI to assess and collect a civil penalty not to exceed \$100 per employer who violates the provisions of this bill. Any civil penalty revenue would be deposited to the general fund.

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

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.