

Commission on Local Government
Estimate of Local Fiscal Impact

2020 General Assembly Session

Bill: SB481

Patron: Favola

Date: 2/26/2020

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:

Earned paid sick time. Requires public and private employers with 15 or more employees to provide those employees with earned paid sick time; however, the provisions of the bill would not apply to an employer that has entered into a bona fide collective bargaining agreement. The measure provides for an employee to earn at least one hour of paid sick leave benefit for every 30 hours worked. An employee shall not use more than 40 hours of earned paid sick time in a year, unless the employer selects a higher limit. Employees shall not be entitled to use accrued earned paid sick time until the ninetieth calendar day following commencement of their employment, unless otherwise permitted by the employer. The bill provides that earned paid sick time may be used (i) for an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care; (ii) to provide care to a family member under similar circumstances; (iii) when there is a closure of the employee's place of business or the employee's child's school or place of care due to a public health emergency; or (iv) when an employee's or employee's family member's presence in the community may jeopardize the health of others because of their exposure to a communicable disease. The bill prohibits employers from taking certain retaliatory actions against employees related to leave and authorizes the Commissioner of Labor and Industry, in the case of a knowing violation, to subject an employer to a civil penalty not to exceed \$150 for the first violation, \$300 for the second violation, and \$500 for each successive violation, if the second or successive violation occurs within two years of the previous violation. The Commissioner of Labor and Industry may institute proceedings on behalf of an employee to enforce compliance with this measure and to collect specified amounts from the employer, which shall be awarded to the employee. Alternatively, an aggrieved employee is authorized to bring a civil action against the employer in which he may recover double the amount of any unpaid earned sick time and the amount of any actual damages suffered as the result of the employer's violation. The bill has a delayed effective date of January 1, 2021 and incorporates SB 1069.

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**Executive Summary:**

Localities have evaluated a negative fiscal impact ranging from \$0.00 - \$150,000.00. A majority of localities responded with a cost, and noted that the bill would require record keeping, additional staff/staff time to administer/implement the requirements of the bill, and require software changes in order to accommodate the reporting and notification requirements of the bill. One locality noted that their estimate does not include additional costs related to additional sick leave hours for full time employees. Another locality noted that complying with the bill would require them to increase their real estate tax. Of those localities that responded with no cost, noted that the bill would not impact them because they already meet or exceed the requirements of the bill.

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**Local Analysis:**

**Locality:** City of Harrisonburg

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

It is conservatively estimated that the fiscal impact for the city could be as high as \$100,000 per year to city taxpayers assuming all part-time employees exercise the use of their earned paid sick time hours. The estimate does not include the additional burden on staff resources to administer nor an estimate of any potential payroll software upgrades to administer. We cannot overemphasize the administrative burden this will have. The city utilizes a large number of seasonal and nonregular part-time employees. There are also a number of open issues as to compliance with the legislation that are unclear based on how it is currently written. There will also likely be plenty of opportunities for abuse.

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Locality: City of Martinsville

Estimated Fiscal Impact: \$150,000.00

At least we can limit it to a maximum of 40 hours/year, as it would apply to "permanent part-time" personnel in our case. If i read it correctly, those who already provide a paid sick leave policy for full-time employees, would still be able to exist under current policy. However, the section that allows for donation of sick leave (40.1-33.3 - J), should be stricken from this proposal due to the complexity of IRS regulations and values/taxes attributable to such donations. They need to look at this before acting. If this is adopted as is, it will become a burden to Human Resources and Payroll departments in trying to enforce these Federal regulations; it will require additional staff to monitor all of this activity. It will also require software changes in order to accommodate the reporting and notification requirements in section 40.1-33.5 and 6, and implementation could take longer than the 1/1/21 commencement requirement. This entire law as currently proposed will cost localities great sums, especially those with very large work forces. For a locality as small as ours, averaging 90+ part-time employees currently not covered by paid sick leave, that would amount to a very large real estate tax increase - a burden to residents all across the Commonwealth.

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**Locality:** City of Norfolk

**Estimated Fiscal Impact:** \$0.00

The city does not foresee an initial fiscal impact as the city already meets or exceeds the requirements listed in the bill. The only financial risk is through potential penalties for violations.

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Locality: City of Roanoke

Estimated Fiscal Impact: \$131,705.00

Here in the City of Roanoke, in discussions with our HR Manager, our Comp and Systems Administrator, and our Payroll Administrator, this bill will have some impact on our internal processes. We do not anticipate any new systems needed for monitoring and tracking this process should the bill become law. In fact, we feel that the system has the functionality to allow us to create a new leave back if needed as well as track leave/accruals.

In our review there was a difference in opinion on whether the bill would apply to all city employees or primarily those temporary employees (temp staff) who do not accrue sick leave today. There is some language (line 79) to suggest that if we have an existing paid leave policy that has at least 40 hours of paid sick time than your policy would comply with the bill as outlined. However, in line 64 it states "All employees shall accrue a minimum of one hour of earned paid sick time for every 30 hours worked...." It doesn't make a reference on how an employee can utilize their time nor does it make a distinction between temporary and full time workers and how they can use the hours earned. While we already provide sick time accruals to full-time staff (which exceeds the required threshold), this will be new for temporary workers as we do not provide to them sick time today. However, "how" an employee can use their 40 hours of sick time under this bill may apply to both full-time and temporary staff.

The estimated fiscal impact is based on temporary earnings for a total of \$131,705. If the intent of this law is to provide additional hours to full time employees then there will be additional expenses.

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**Locality:** City of Virginia Beach

**Estimated Fiscal Impact:** \$0.00

This bill will have minimal to no impact on the City. Our current leave policies greatly exceed the provisions provided within SB481 for sick leave for employees who were hired prior to 2014, annual leave for part-time employees, and paid time off for employees hired after 2014. Therefore, our sick leave for pre-2014 employees qualifies in excess of the proposed 40.1-33.2(A) and the annual leave and PTO plans are covered by the proposed 40.1-33.2(E).

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Locality: City of Winchester

Estimated Fiscal Impact: \$50,000.00

This would negatively impact the City of Winchester. Not so much in the accruing of sick leave, because our PTO and old sick leave programs cover that part. Our concern is around making a law that mandates how employers should treat their employees. It mentions how the employer would and would not be able to address absenteeism, even when the leave is unpaid. This also has numerous mandates on notifications to employees, record keeping, fines, and civil remedies for the employee to get from the employer.

This could not be administered properly at our current staff levels (and even with our electronic timekeeping system). We would definitely need another staff person to manage it and all the additional costs associated with the record keeping and compliance required to not be in a situation where the employer could see fines and penalties around it. The \$50,000 indicated in the estimated fiscal impact is for 1 FTE (including benefits).

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**Locality:** Rockingham County

**Estimated Fiscal Impact:** \$40,000.00

We estimate that this would cost the County approximately \$40,000 annually to implement this legislation. This cost is attributed to providing part-time employees sick leave benefits that they do not currently receive.  
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