

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** SB373

House of Origin Error! Bookmark not defined. Introduced Substitute
 Engrossed

Second House In Committee Substitute Enrolled

2. **Patron:** Boysko

3. **Committee:** Passed both Houses.

4. **Title:** Paid family and medical leave insurance program; notice requirements; civil action.

5. **Summary:** Requires the Virginia Employment Commission to establish and administer a paid family and medical leave insurance program with benefits beginning January 1, 2027. Under the program, benefits are paid to covered individuals, as defined in the bill, for family and medical leave. Funding for the program is provided through premiums assessed to employers and employees beginning January 1, 2026. The bill provides that the amount of a benefit is 80 percent of the employee's average weekly wage, not to exceed 80 percent of the regional weekly wage, which amount is required to be adjusted annually to reflect changes in the regional average weekly wage. The bill caps the duration of paid leave at 8 weeks in any application year and provides self-employed individuals the option of participating in the program. The bill exempts state employees, local officers, or employees of a local school division, all defined in the bill, from the definition of "a covered individual."

The bill requires VEC, in collaboration with the Department of Human Resource Management, the Compensation Board, the Virginia Department of Education, and the Department of Planning and Budget, to update its November 2021 Virginia Paid Family and Medical Leave study to include an assessment of the budgetary impacts of extending application of the benefits provided by the bill to exempt individuals to adopt rules to ensure that its policies relating to family and medical leave for employees of the Commonwealth, including parental leave under § 2.2-1210, provide employees of the Commonwealth with leave benefits equal to or greater than the leave benefits provided to a covered individual under the Program. This update is due on or before December 1, 2024.

The third enactment states the Family and Medical Leave Insurance Trust Fund, created by this bill, shall receive a non-interest-bearing treasury loan in an amount provided in the appropriation act, which shall be used to (i) establish the paid family and medical leave insurance program and (ii) conduct the study and assessment required by the fourth enactment. Borrowings from such treasury loan shall be repaid by the Fund to the general fund, and until such borrowings have been repaid in full, no moneys from the Fund may be disbursed to provide benefits the program.

6. **Budget Amendment Necessary:** Yes to Item 356, Virginia Employment Commission.

7. Fiscal Impact Estimates: Final. See item 8.

7a.1 Expenditure Impact: Virginia Employment Commission (Operational Costs)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	\$0	0	n/a
2025	\$70 Million	250	GF or Line of Credit
2026	\$33.5 Million	250	GF or Line of Credit
2027	\$33.5 Million	250	NGF
2028	\$33.5 Million	250	NGF
2029	\$33.5 Million	250	NGF
2030	\$33.5 Million	250	NGF

7a.2 Expenditure Impact: Virginia Employment Commission (Benefit Payments)

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024	\$0	n/a	n/a
2025	\$0	n/a	n/a
2026	\$0	n/a	n/a
2027	1.368 Billion	n/a	NGF
2028	1.509 Billion	n/a	NGF
2029	1.663 Billion	n/a	NGF
2030	1.834 Billion	n/a	NGF

7b. Revenue Impact: Virginia Employment Commission

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2024	\$0	n/a
2025	\$0	n/a
2026	1.517 Billion	NGF
2027	1.621 Billion	NGF
2028	1.653 Billion	NGF
2029	1.686 Billion	NGF
2030	1.683 Billion	NGF

- 8. Fiscal Implications:** This bill establishes the Paid Family and Medical Leave Program and the Paid Family and Medical Leave Insurance Trust Fund. To the extent that sufficient moneys in the Fund are available, the Fund is to be used to provide eligible individuals with a family and medical leave benefit and for the Fund's administration. The payroll taxes established in the bill are the revenue sources for the Fund.

House amendments to HB30/SB30 include budgetary language requiring the Virginia Employment Commission in collaboration with the Department of Human Resource Management, the Compensation Board, the Virginia Department of Education, and the Department of Planning and Budget, to update the 2021 Virginia Paid Family and Medical Leave Study to include the budgetary impacts of the program for state employees, state-supported local employees, and local school divisions.

Senate amendments to HB30/SB30 include budgetary language authorizing a treasury loan to the Virginia Employment Commission for the implementation of this bill.

Virginia Employment Commission

It is anticipated that this bill will have a nongeneral fund expenditure impact and a nongeneral fund revenue impact to the Virginia Employment Commission (VEC). VEC is to administer the new program. VEC anticipates that start-up costs will be \$70.0 million in FY 2025. These anticipated costs are reflected in the first table in item 7.a.1., above. Until such time as revenue could be generated to offset the upfront expenses, VEC would require a line of credit, treasury loan, or general fund appropriation. The bill requires the repayment of any general fund support initially provided for the implementation of this program by January 1, 2032.

The start-up costs address the development and implementation of the required IT systems and staffing (250 FTEs) for the program. A detailed procurement would have to be completed, but VEC based this estimate on the cost to develop similar systems. The tax system must include: employer registration; employer account maintenance; wage reports; paid family leave tax payments; general ledger; tax refunds; tax compliance (penalties and interest); paid family leave field audit; and, management reports. The benefit system must include: claims filing management; adjudication of medical, family, and parental leave claims; verification of medical licensures; payment and administration of benefits; repayment recovery; fraud prevention tools; and, analytics. In addition to the procurement of tax and benefits systems, VEC estimates that the agency will need to hire program staff for the establishment and administration of the paid family and medical leave program pre-implementation. This includes staff for the new Information Technology Division, Division of Tax, Division of Benefits, Appeals, Customer Relations, and Support Services. VEC anticipates that to fully function, the paid family and medical leave program will need 250 FTEs; this is comparable to the agency's administration of the state's federal Unemployment Insurance Program. Since this is a state directed program, no federal funds can be used to support any component of this new program.

The bill directs VEC to promulgate regulations to implement the new program by July 1, 2025, to begin collecting the premium or payroll contributions from employers to pay benefits under the program beginning on January 1, 2026, and to begin making payments to eligible individuals beginning on January 1, 2027. Collections will be deposited to the Fund and payments will be made from the Fund. According to the bill, for calendar years 2026 and 2027, VEC is to set the premium based on sound actuarial principles, and beginning with calendar year 2028, VEC is to use a methodology described in the bill to set the premium, considering the balance in the Fund at the close of the previous fiscal year and ensuring that the Fund maintains or achieves an annualized amount of not less than 140 percent of the previous fiscal year's expenditure for benefits and for the administration of the program. According to VEC, in order to support the benefit level established in the bill, premiums would have to be assessed in the amount of 0.66 percent of wages. These amounts would be split between the employer and employee. Total annual benefits are estimated to be approximately \$1.4 billion in FY 2027, increasing to \$1.9 billion by FY 2030. While the premiums and payments are indeterminate, and will be based on demand, actuarial principles

and usage, VEC estimates that revenues from the premium will be between \$1.5 billion in FY 2027 and \$1.7 billion in FY 2030. The projected utilization rate and average duration in VEC's estimates are based on the Department of Labor's 2012 and 2014 Family and Medical Leave Report.

The bill's third enactment authorizes a treasury loan to VEC which shall be used to establish the paid family and medical leave insurance program and (ii) conduct the study and assessment required by the fourth enactment.

Department of Taxation

It is anticipated that this bill will not result in a fiscal impact to the Department of Taxation as the agency would not collect the new tax.

9. Specific Agency or Political Subdivisions Affected: Virginia Employment Commission; Department of Human Resource Management; Virginia Retirement System; Department of Taxation; State Compensation Board; Department of Planning and Budget.

10. Technical Amendment Necessary: No.

11. Other Comments: None.