

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB660

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

2. Patron: Boysko

3. Committee: Commerce and Labor

4. Title: Virginia Equal Pay Act; civil penalties.

5. Summary: This bill prohibits public and private employers from discriminating between employees on the basis of membership in a protected class in the payment of wages or other compensation, including benefits, by paying wages or other compensation to employees who are members of a protected class at a rate less than the rate at which it pays wages or other compensation to employees who are not members of the protected class for substantially similar work. The measure also prohibits an employer from (i) discriminating between employees by providing less favorable employment opportunities on the basis of membership in a protected class, (ii) limiting an employee's right to discuss wages, (iii) relying on the wage history of a prospective employee in considering the prospective employee for employment or determining the wages that the prospective employee is to be paid by the employer upon hire, or (iv) taking certain retaliatory actions against an employee. The measure also establishes criteria for when wage differentials between employees are permitted. The measure requires employers to (a) provide a prospective employee with the wage range for the position for which the prospective employee is applying upon request or prior to inquiring about the prospective employee's wage expectations or providing an offer of compensation and (b) maintain records of the wages and wage rates, job classifications, and other terms and conditions of employment for a period of three years. The measure gives an employee who is the subject of a violation a right of action to recover, for certain violations, the greater of compensatory damages or \$10,000, liquidated damages, punitive damages, and attorney fees. Violations are also subject to civil penalties.

6. Budget Amendment Necessary: Yes, Item 120 HB30/SB30, see Item 8.

7. Fiscal Impact Estimates: Preliminary, see item 8.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020	N/A	N/A	N/A
2021	\$328,211	3	GF
2022	\$328,211	3	GF
2023	\$328,211	3	GF
2024	\$328,211	3	GF
2025	\$328,211	3	GF
2026	\$328,211	3	GF

8. Fiscal Implications: It is anticipated that this bill will result in an expenditure impact to the Department of Labor and Industry (DOLI). DOLI indicates that the bill's expansion of employees covered by the equal pay law to all protected classes, the restriction on employers requiring salary history from prospective employees, and the protection of employees right to discuss their wages will lead to more contacts and claims under the current equal pay law. DOLI anticipates receiving at least 250-300 contacts and claims, and requiring two additional labor law compliance officers to address the increased workload. DOLI also indicates that the agency will need to hire an additional attorney to handle the claims of employees who cannot afford an attorney and to request an assignment of claims of the Commissioner. DOLI anticipates that an attorney will be especially necessary when there is more than one claimant against a single employer.

HB30/SB30, as introduced, provides \$206,093 and two positions in each year from the general fund to support the enforcement of the state's labor laws. As stand-alone legislation, DOLI anticipates that the funding and positions provided in HB30/SB30 will be sufficient to support a portion of the staffing needs associated with this bill. It is anticipated that a budget amendment for \$122,118 will be necessary to support the remaining portion of staffing needs anticipated by DOLI to implement the provisions of this bill. However, if the aggregate number of bills likely to pass either house is unusually large, it is possible the agency will require additional resources.

The Department of Human Resource Management (DHRM) anticipates no fiscal impact in statewide policy administration or human resource operations as a result of this bill.

Additionally, the punishment for certain violations is a civil penalty of up to \$2,500 for a first violation, \$3,000 for a second violation, and \$5,000 for a third or subsequent violation. Any revenue is deposited to the Literary Fund. The amount of any such revenue is indeterminate.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.