

The fiscal impact of this bill is indeterminate, but potentially significant. This bill expands investigative and enforcement capabilities handled by DOLI related to misclassification of workers, processing and payment of overtime wages, and prevailing wage compliance. This bill allows DOLI to institute administrative or court proceedings to remedy these violations and seek to collect any wages wrongfully withheld and damages and penalties. This bill provides investigative authority to both DOLI and the OAG. If DOLI has primary responsibility as a result of this bill, to fully implement the bill's provisions, the agency anticipates the bill will have a significant fiscal impact to DOLI, requiring additional positions, the development of additional modules within the agency's IT system, and ongoing contractual services for annual IT maintenance. It is anticipated that the OAG may have an indeterminate increase in workload impact as a result of this bill; it is anticipated that the OAG can absorb any such increase within existing resources.

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This legislation requires minimum “Woodrum” impact funding per § 30-19.1:4, Code of Virginia, to account for a possible increase in the need for state prison beds. By expanding the definition of wages, this bill may increase the number of violations involving amounts of \$10,000 or more that are subject to existing Class 6 felony penalties for wage violations under § 40.1-29. As a result, the proposal could increase state-responsible (prison) bed space needs for the Commonwealth. However, because the number of additional felony convictions that may result cannot be estimated with available data, the magnitude of the potential impact on prison bed space cannot be determined. In such cases, Chapter 725, 2025 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill.

Fiscal Analysis: This statement is preliminary. Fiscal impact statements associated with this bill and other legislation with similar requirements may overlap and may not be fully additive due to shared implementation activities.

Under this legislation, employers that violate provisions relating to payment of prevailing wage for public works projects, minimum wage, the misclassification of workers, or overtime wage provisions would be liable for the applicable remedies, damages, or other relief available in an action brought pursuant to subsection J of § 40.1-29, Code of Virginia. Paragraph F of § 40.1-29, Code of Virginia, states that the Commissioner of DOLI may institute administrative or court proceedings to remedy these violations and seek to collect any wages unlawfully withheld and available damages and penalties. Additionally, under paragraph M of § 40.1-29, Code of Virginia, the Attorney General or Commissioner may investigate and bring civil action against an employer for these violations. Under this bill, paragraph E of § 40.1-27.3, Code of Virginia, also allows the Commissioner of DOLI, the OAG, or any person alleging a violation of provisions to bring a civil action related to certain retaliatory action prohibitions, as specified in statute.

Currently, DOLI investigates payment of wages, minimum wage, and prevailing wage claims. Under the provisions of this bill, DOLI would have authority to investigate and enforce misclassification of workers and processing and payment of overtime wages claims, enforce prevailing wage compliance, and incorporate payment of minimum wage investigations into a standard administrative process to resolve wage protection issues at the agency. DOLI would also be able to enforce prohibitions of certain retaliatory actions against employees.

The language of this bill includes both the OAG and the Commissioner as retaining investigative and compliance responsibilities related to misclassification of workers, processing and payment of overtime wages, payment of wages, payment of minimum wage, and prevailing wage for public works projects. DOLI states that if the agency has primary investigative and enforcement responsibility for these five wage protection areas, the agency will require 12 Investigators (\$137,907 each), four Labor Law Specialists (\$120,743 each), one Legal Services Program Manager (\$229,944 each), six Legal Services Officers (\$168,022 each), and one IT Technician (\$154,622). The number of positions the agency could recruit, onboard, and train at one time is unknown.

Additionally, the agency anticipates needing to develop three additional workstreams for the agency’s Labor and Employment Law IT system related to misclassification of workers, processing and payment of overtime

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wages, and prevailing wage enforcement for public works projects. Each system would cost approximately \$991,487 and DOLI anticipates being able to complete one workstream within the system of record each fiscal year. The fiscal impact statement for HB260 also discussed a potential \$991,487 in one-time general fund expenses for a prevailing wage record keeping system; if both bills were to pass, a single system would be able to fulfill the provisions of both bills. DOLI also anticipates \$135,000 in ongoing expenses to contract for annual IT maintenance for these three workstreams. The department anticipates approximately \$5,850 in ongoing costs to contract for language services for client contacts at the agency and to translate documents, which is anticipated to be absorbable within existing resources.

Irrespective of whether the agency utilizes the authority this bill provides regarding additional investigative and enforcement capabilities, the agency may experience an increase in calls and inquiries, resulting in increased workload. Any additional resources that may be provided to the agency should be allocated to Item 352 in HB/SB30.

Paragraph H of § 40.1-29, Code of Virginia, states that an employer who knowingly fails to make payment of wages shall be subject to a civil penalty not to exceed \$1,000 for each violation. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund. The general fund revenue impact of this legislation is indeterminate.

It is anticipated that there may be an increase in cases investigated by the OAG, which may increase the Office's workload; however, this amount is indeterminate. It is anticipated that any increase in workload or costs associated with the provisions of this bill can be absorbed within existing resources.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays localities \$5.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g., correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2025), the estimated total state support for local jails averaged \$58.25 per inmate, per day in FY 2024.

For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$5.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail and \$15.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails'

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operating costs, e.g., correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2025), the estimated total state support for local jails averaged \$58.25 per inmate, per day in FY 2024.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 725, 2025 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill.

Other: This bill is similar to HB238 and HB930.