Department of Planning and Budget
2024 Session Fiscal Impact Statement

1. **Bill Number:** HB348

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

2. **Patron:** Ward

3. **Committee:** Labor and Commerce

4. **Title:** Employment; paid sick leave; civil penalties.

5. **Summary:** Expands provisions of the Code that currently require one hour of paid sick leave for every 30 hours worked for home health workers to cover all employees of private employers and state and local governments. The bill requires that employees who are employed and compensated on a fee-for-service basis accrue paid sick leave in accordance with regulations adopted by the Commissioner of Labor and Industry. The bill provides that employees transferred to a separate division or location remain entitled to previously accrued paid sick leave and that employees retain their accrued sick leave under any successor employer. The bill allows employers to provide a more generous paid sick leave policy than prescribed by its provisions. Employees, in addition to using paid sick leave for their physical or mental illness or to care for a family member, may use paid sick leave for their need for services or relocation due to domestic abuse, sexual assault, or stalking.

   The bill provides that certain health care workers who work no more than 30 hours per month may waive the right to accrue and use paid sick leave. The bill also provides that employers are not required to provide paid sick leave to certain health care workers who are employed on a pro re nata, or as-needed, basis, regardless of the number of hours worked. The bill requires the Commissioner to promulgate regulations regarding employee notification and employer recordkeeping requirements.

   The bill authorizes the Commissioner, 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. The Commissioner may institute proceedings on behalf of an employee to enforce compliance with the provisions of this bill. Additionally, an aggrieved employee is authorized to bring a civil action against the employer in which he may recover double the amount of any unpaid sick leave 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, 2025.

6. **Budget Amendment Necessary**: Yes, Items 288 (DMAS) and 349 (DOLI) of HB30/SB30 as introduced

7. **Fiscal Impact Estimates:** Preliminary. See Item 8.

7a. Expenditure Impact, Department of Medical Assistance Services:

Fiscal Year	*Dollars*	*Fund*
2025	$3,411,978	General
2025	$4,031,620	Nongeneral
2026	$8,480,743	General
2026	$10,008,000	Nongeneral
2027	$8,880,764	General
2027	$10,489,230	Nongeneral
2028	$9,282,906	General
2028	$10,972,845	Nongeneral
2029	$9,688,484	General
2029	$11,460,484	Nongeneral
2030	$10,110,244	General
2030	$11,967,066	Nongeneral

7b. Expenditure Impact, Department of Labor and Industry:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2025	600,000	8	General
2026	1,200,000	8	General
2027	1,200,000	8	General
2028	1,200,000	8	General
2029	1,200,000	8	General
2030	1,200,000	8	General

8. **Fiscal Implications:** This fiscal impact estimate is preliminary, with anticipated general and nongeneral fund expenditure impact. This fiscal impact statement will be updated as additional information is received from state agencies.

Department of Medical Assistance Services

According to the Department of Medical Assistance Services (DMAS), this bill would impact Medicaid expenditures through consumer directed attendant care. In the consumer directed model of care, the Medicaid members select their personal care, respite or companion care attendants and the Medicaid program pays for the wages of the attendant plus appropriate employer taxes and benefits. Currently, home health care workers who are consumer directed attendants and who work more than twenty hours a week receive one hour of sick leave for every thirty hours worked, with a maximum of forty hours per year. This bill removes the requirement that home health care workers work on average twenty hours or more a week to qualify for accruing sick leave hours.

DMAS estimates that 7.2 percent of the current hours worked do not qualify for accruing sick leave because the attendant works fewer than twenty hours per week. One hour of sick leave is earned for every 30 hours worked. DMAS states billable rates would need to be raised by 0.24 percent, as calculated by one hour for every thirty, times 7.2 percent. Attendants who work less than twenty hours a week would not reach the forty hours per year limit. DMAS expects to pay $987.0 million in consumer directed care in FY 2025 and $1.02 billion in FY 2026. Ninety-four percent of attendant care is paid through base Medicaid and six percent is paid through Medicaid Expansion. With a start date of January 1, 2025, and one month payment lag, this rate increase is estimated to cost $1.0 million ($0.5 million general fund) in fiscal year 2025 and $2.4 million ($1.1 million general fund) in fiscal year 2026.

The bill also expands paid sick leave requirements to include individuals who provide personal care, respite, or companion services to an individual who receives agency directed services. In an agency directed model of service, a home care agency employs the attendants who provide personal and respite care. While DMAS does not have information as to the extent home care agencies are currently providing sick leave, it is assumed that this bill's provisions would increase home care agency operating costs similar to those experienced in consumer direction.

The following information is provided if it is the intent of the bill for the state to recognize the cost to impacted home care agencies. Consumer directed rates had an increase of $0.33 per hour in northern Virgina and $0.26 per hour outside of Northern Virginia to pay for the sick leave benefit. Should assumptions similar to those used to generate consumer directed costs be applied to home care agency directed care, then DMAS reports that rates would need to be increased by 1.45 percent in northern Virginia and 1.32 percent outside of northern Virginia. With a start date of January 1, 2025, and one month claims payment lag, costs of a rate increase for these providers are estimated to be $7.4 million ($3.4 million general fund) in FY 2025 and $18.5 million ($8.5 million general fund) in FY 2026.

Department of Labor and Industry
The Department of Labor and Industry (DOLI) would be responsible for enforcing this bill by promulgating guidelines, monitoring, and compliance. DOLI anticipates an increase of approximately 1,200 annual complaints that will need to be investigated. The increased workload will require eight new positions: five Compliance Officers, one Compliance Officer Supervisor, one Hearing and Legal Services Officer, and one Hearing and Legal Services Officer Mediator, totaling to $1.2 million general fund in annual costs.

The bill authorizes the Commissioner, in the case of a known 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. Any civil penalties would be paid into the general fund. Because the number of violations cannot be predicted, the revenue impact is indeterminate.

Commonwealth of Virginia Agencies
The Commonwealth is included as an employer for the purposes of this bill. The Department of Human Resource Management anticipates that this bill will not result in a fiscal impact.

9. **Specific Agency or Political Subdivisions Affected:** State and local governmental entities generally; the Departments of Labor and Industry and Medical Assistance Services specifically.

10. **Technical Amendment Necessary:** No

11. Other Comments: None