



Virginia Department of Planning and Budget **Economic Impact Analysis**

16 VAC 15-90 Paid Sick Leave Regulation
Department of Labor and Industry
Town Hall Action/Stage: 7028 / 11318 Proposed
October 13, 2026

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

Pursuant to Chapters 1128 and 1129 (identical) of the 2026 *Virginia Acts of Assembly*, the Commissioner of the Department of Labor and Industry (DOLI) proposes to newly promulgate the *Paid Sick Leave Regulation*.

Background

Paid Sick Leave Requirements Prior to Legislation

The statutes in the legislation become effective July 1, 2027. Currently Virginia does not have a generally applicable statutory or regulatory requirement that private employers provide paid sick leave. However, there are paid sick leave requirements for home health workers, full-time state government employees and some local government employees in state law, and full-time federal employees and certain federal contractors also receive paid sick leave per federal regulations; these requirements are noted below.

¹ See Code § 2.2-4007.04 (A).

Code § 40.1-33.4 states that “[home health workers]² shall accrue a minimum of one hour of paid sick leave for every 30 hours worked.”³ Code § 15.2-1605 specifies that every county and city “shall annually provide for each employee ... at least seven days sick leave with pay” The “employee” in this context consist of an “employee or deputy of the attorney for the Commonwealth, the treasurer, the commissioner of the revenue, the clerk of the circuit court, and the sheriff and shall also include the officers and employees of all courts whose salaries are paid by the Commonwealth.” Code § 51.1-1104 provides that participating⁴ full-time state employees shall receive: 80 hours of sick leave if they have 120 or more months of state service, 72 hours of sick leave if they have 60 to 119 months of state service, and 64 hours of sick leave if they have fewer than 60 months of state service. Code § 51.1-1104 also provides that qualifying part-time employees⁵ shall receive: 40 hours of sick leave if they have 120 or more months of state service, and 32 hours of sick leave if they have fewer than 120 months of state service.

Federal full-time employees accrue four hours of sick leave for each biweekly pay period; and federal part-time employees accrue one hour of sick leave for each 20 hours in a pay status.⁶ 29 C.F.R. Part 13 requires employees performing work on or in connection with certain covered federal contracts to accrue paid sick leave generally at the rate of at least one hour of paid sick leave for every 30 hours worked.

Legislation

Chapters 1128 and 1129 created Article 2.1:1. *Paid Sick Leave*, within Code Title 40.1 *Labor and Employment*, Chapter 3 *Protection of Employees* (Act). The Act requires one hour of paid sick leave for every 30 hours worked for all employees of private employers and state and local governments, with certain exceptions.⁷ Paid sick leave shall be carried over to the year

² "Home health worker" is defined as "an individual who provides personal care, respite, or companion services to an individual who receives consumer-directed services under the state plan for medical assistance services." See Code § 40.1-33.3.

³ This applies to home health workers who work on average at least 20 hours per week or 90 hours per month.

⁴ "Participating employee" means any eligible employee required or electing to participate in the Virginia Sickness and Disability Program.

⁵ "Qualifying part-time employee" is defined as "any person who would qualify as a state employee as defined in § 51.1-124.3 but, rather than being regularly employed full time on a salaried basis, is regularly employed part time for at least 20 hours but less than 40 hours per week on a salaried basis."

⁶ See <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/sick-leave-general-information/>.

⁷ It does not apply to: 1) home health workers who works on average at least 20 hours per week or 90 hours per month and their employers, 2) employees who (i) are licensed, registered, or certified by a health regulatory board within the Department of Health Professions; (ii) are employed by a facility licensed by the Department of Health or

following the year in which it was accrued. An employee shall not accrue or use more than 40 hours of paid sick leave in a year, unless the employer selects a higher limit. Any employer with a paid leave policy, such as a paid time off policy, that provides an employee an amount of paid leave sufficient to meet these requirements, and that may be used for the same purposes and under the same conditions, is not required to provide additional paid sick leave to any employee that is eligible for paid leave under the policy.

The paid sick leave requirement applies to employers with at least 50 employees beginning July 1, 2027; employers with at least 25 employees beginning July 1, 2028; and employers with at least one employee beginning July 1, 2029.

The enacted § 40.1-33.6:3 states that paid sick leave shall be provided to an employee by an employer for:

1. 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;
2. Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventive medical care; or
3. Absence due to domestic violence, sexual assault, or stalking, provided that the leave is to allow the employee to seek or obtain medical care, mental health care, counseling, legal services, relocation or securing of an existing home, or other victim services for the employee or the employee's family member.

The Act also directs the Commissioner to promulgate regulations that would fulfill three legislative mandates, which are summarized below.

Mandate #1: (§ [40.1-33.6:2](#) (L). *Accrual of paid sick leave*) provides for the accrual of paid sick leave for employees who are employed and compensated on a fee-for-service basis.

the University of Virginia Medical Center or Virginia Commonwealth University Health System Authority; and (iii) works, on average, no more than 30 hours per week, 3) employees who are employed on a pro re nata, or as-needed, basis, regardless of the number of hours worked in the month and who are (i) licensed, registered, or certified by a health regulatory board within the Department of Health Professions; (ii) employed by a facility licensed by the Department of Health; (iii) employed by the University of Virginia Medical Center or Virginia Commonwealth University Health System Authority; or (iv) employed by any agency licensed by the Department of Behavioral Health and Developmental Services, 4) and railroads and railroad employees.

Mandate #2: (§ [40.1-33.6:5](#). *Notice and recordkeeping; regulations*) includes requirements for employers concerning employee notice and employer recordkeeping, including:

1. Notification of employees of their rights under this article, both in writing and through required posting, including their right to file a complaint or bring a civil action for violations of this article;
2. Establishing and maintaining recordkeeping systems regarding the use and accrual of paid sick leave, including the requirement to retain records for three years; and
3. Ensuring the confidentiality of any protected health information or information regarding domestic violence, sexual assault, or stalking that the employer possesses about an employee or an employee's family member.

Mandate #3: (§ [40.1-33.6:7](#). *Enforcement; civil penalties; civil actions*) establishes a system utilizing multiple means of communication to receive complaints regarding noncompliance with this article and to investigate complaints received by the Commissioner in a timely manner.

Regulation

Satisfying legislative mandate #1, the proposed regulation provides that employees who are paid on a fee-for-service basis shall accrue paid sick leave based on their actual hours worked when their employer is required to keep records of their hours worked under the Fair Labor Standards Act, 29 USC § 201 et seq. or other applicable law, or if their employer otherwise keeps records of the employee's hours worked. For employees who are compensated on a fee-for-service basis, but whose employers are not required to record their hours worked under applicable law, the employer may establish a reasonable method of calculating the number of hours worked by the employee. A reasonable method for determining the number of hours worked by an employee for whom recording hours worked is not required by Virginia, federal, or local law includes: (i) the number of hours in a work schedule agreed upon by the employer and the employee; (ii) billing hours; or (iii) an established practice which provides a reasonable approximation of the hours actually worked by the employee. Hours equal to or above 40 a week are considered 40 for the purposes of sick leave accrual.

Satisfying the first part of legislative mandate #2, the proposed regulation states that: "Employers shall provide each employee written notice describing their rights under this Act upon hiring, no later than five business days after an employee begins work.... An employer

shall maintain and display a notice provided by the [DOLI] in a conspicuous place accessible to employees providing information about employees' rights under this Act." The right to file a complaint or bring a civil action for violations of the Act are included among the rights to be included in the written and posted notices.

Satisfying the second part of legislative mandate #2, the proposed regulation requires employers to retain records for a three-year period documenting each employee's hours worked, hours of paid sick leave accrued, and hours of paid sick leave used, unless the employer falls under one of the following exceptions:

1. An employer that elects to frontload leave ... is not required to maintain records of hours worked, provided that the employer retain records documenting its practice of frontloading leave and the amount of paid sick leave provided. If the employer elects to provide newly-hired employees with a prorated amount of paid sick leave, ... , the employer must keep records showing the prorated amount of paid sick leave provided to the employee.
2. An employer is not required to maintain records of hours worked for employees who are exempt from overtime requirements under 29 USC § 213(a)(1), provided that the employees accrue paid sick leave as set forth in [the Act].
3. An employer is not required to maintain records of hours worked for employees who are covered by 29 CFR 825.801 [airline flight crew employees], provided that the employee accrues paid sick leave as though they worked 40 hours in each workweek.

Frontloading paid sick leave means providing employees at least 40 hours of paid sick leave or equivalent paid time off at the beginning of each year. The employee would have the right to use that leave immediately upon receiving it. The employer would not be required to keep records of the paid sick leave that the employee would have accrued during that designated year. The amount could be prorated for employees hired after the beginning of the year.

Satisfying the third part of legislative mandate #2, the proposed regulation states that

An employer commits unlawful interference under the Act if that employer takes an action (including an affirmative act, omission, or statement) that would interfere with a reasonable person's rights or protected activity under the Act or its implementing regulation. Interference can include: ... Failing to store and maintain the confidentiality of sensitive information, such as information about an employee or their family member's health conditions, that the employer receives in relation to a request for paid sick leave;

Satisfying legislative mandate #3, the proposed regulation puts forth that upon receipt of a complaint from an employee or third-party, or at the Commissioner's discretion, the commissioner may investigate any alleged violations of the Act. When the Commissioner determines that a violation has occurred, and a case is not otherwise resolved through mediation or other means, the Commissioner will issue a formal determination letter. The employer may request an informal conference with the Commissioner within 15 days of receipt of the formal determination letter regarding the findings. The informal conference will result in a decision of the Commissioner.

When the Commissioner issues a formal determination or decision of violation, the employer may resolve the investigation by taking all corrective action determined appropriate by the Commissioner, including paying all back wages, damages, and penalties owed. To prevent future violations, the Commissioner may require an employer to enter into a compliance agreement as a condition of resolution.

When the Commissioner issues a formal determination or decision of violation and the employer refuses to comply or otherwise fails to respond within 15 days of receipt, the decision of the Commissioner shall be final. The Commissioner may enter a final order against the employer in the appropriate circuit court, refer the matter to the Attorney General, or bring a civil action to enforce the Act.

Estimated Benefits and Costs

Most of the benefits and costs are due to the legislation, either through directly stated requirements in the legislation or direction to provide detail on requirements in the regulation. The proposed requirements in the regulation do appear to minimize the costs necessary to comply with the legislation.

Observing data from the U.S. Bureau of Labor Statistics' National Compensation Survey for twelve states that introduced mandatory paid sick leave laws,⁸ on average post-mandate

⁸ The twelve states are Arizona, California, Colorado, Connecticut, Maryland, Massachusetts, New Jersey, New York, Oregon, Rhode Island, Vermont, and Washington.

workers took 16.8 hours of paid sick leave annually.⁹ The benefits and costs of paid sick leave to employers and employees will differ based upon the situation.

The cost to employers will depend upon the extent to which they already provided paid sick leave and the availability of substitute employees. For employers that were already providing at least the minimum required amount of sick leave or an equivalent paid time off policy, there essentially would be no introduced cost.¹⁰ In contrast, for employers that have not been providing paid sick leave it is likely that workers often come to work when they are sick due to the financial pressure of needing the pay. For these employers, after the introduction of paid sick leave workers will be more likely to not come to work when they are sick. However, the cost to these employers will vary depending upon the availability of other workers. For employers of hourly workers, when another hourly employee is available to come in for the person out sick, there would be the cost of paying two employees hourly wages when only one is working. But when another hourly employee is not available there could be either a decrease in the quantity of products produced and available for sale in a given time, or a temporary reduction in the speed and quality of services provided due to fewer workers available in a given shift. When multiple workers are out taking paid sick leave at the same time, and they cannot be replaced, some businesses may even need to close temporarily. On the other hand, the costs to employers of paid sick leave may be somewhat mitigated by certain benefits, including increased employee satisfaction, reduced employee turnover, and an increase in the ability to attract potential employees. The employer may also benefit from a decrease in the spread of illness within the workplace, which may also help reduce the spread of communicable diseases and reduce overall healthcare costs.

Paid sick leave is beneficial for employees, but the impact varies depending on the situation. Hourly and fee-for-service employees receive pay when they are too sick to work or are needed to care for a sick family member, which they would not have received without paid sick leave. Salaried workers may feel less pressure to work when they are sick, which may reduce stress. This can reduce the financial or psychological pressure on employees to continue

⁹ Source: Maclean, J.C., Stefan Pichler, and Nicolas R. Ziebarth. 2025. Mandated Sick Pay: Coverage, Utilization, and Crowding-in. *Journal of the European Economic Association*. 23(5):1868–1907, <https://pmc.ncbi.nlm.nih.gov/articles/PMC12510734/pdf/jvaf008.pdf>.

¹⁰ This assumes that if the employer was already providing at least the minimum required amount of sick leave or an equivalent paid time off policy, that records would be kept. If not, there would be a new recordkeeping cost.

working while sick and can facilitate earlier access to needed health care, which may help prevent illness from becoming worse. Paid sick day laws are linked to a 5.6 percent reduction in emergency room visits, with the biggest reductions among Medicaid patients.¹¹ Requiring paid sick leave would particularly benefit low-wage workers who currently have limited access to paid sick leave. Nationwide, only 48 percent of the lowest-income workers have access to paid sick leave, while 97 percent of the highest-income workers do.¹²

In the proposed regulation, the design of recordkeeping requirements for employers beneficially minimizes employer administrative costs in two ways. First, aligning accrual methods and associated administrative obligations with employers' existing recordkeeping responsibilities under federal law helps to prevent duplication of effort. Second, the proposal to allow frontloading would also reduce recordkeeping requirements for employers that choose that method, as they would not need to track and calculate paid sick leave accrual throughout the year.

Additionally, the Act requires employers to post notification of employee rights under the Act. The proposed regulation instructs DOLI to provide employers with such a poster. This reduces administrative burden for employers since they would not need to compose and create the poster themselves.

Businesses and Other Entities Affected

Employers in the Commonwealth (other than the aforementioned exceptions) that are not already providing at least the minimum required amount of paid sick leave or an equivalent amount from a paid time off policy would be directly affected by the Act and the proposed regulation. The number of such employers is not currently known. Employees and family members of such employers would be indirectly affected. There are approximately 1,011,000

¹¹ Source: Ma, Yanlei et al. 2022. State Mandatory Paid Sick Leave Associated With A Decline In Emergency Department Use In The US, 2011–19. *Health Affairs*. 41(8), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2022.00098>.

¹² Source: U.S. Bureau of Labor Statistics, National Compensation Survey, March 2026. The lowest income are those with the bottom ten percent wages. The highest income are those with the top ten percent wages. <https://www.bls.gov/news.release/ebs2.t06.htm>.

private sector employees¹³ and 46,000 state and local government employees¹⁴ in Virginia without paid sick leave. Not all of these employees would gain paid sick leave due to the exceptions mentioned above.

The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.¹⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.¹⁶ As noted above, the costs are due to the legislation, and the proposed regulation minimizes additional required costs. Thus, no adverse impact from the regulation is indicated.

Small Businesses¹⁷ Affected:¹⁸

As the introduced costs are from the legislation, the proposed regulation does not appear to adversely affect small businesses.

Localities¹⁹ Affected²⁰

The proposed regulation neither disproportionately affects particular localities, nor introduces costs to local governments.

¹³ The Federal Reserve Bank of St. Louis shows 3,484,700 Virginia private sector employees in its most up-to-date display accessed on October 12, 2026, <https://fred.stlouisfed.org/series/SMS510000005000000001>. The U.S. Bureau of Labor Statistics, National Compensation Survey, March 2026 indicates 29 percent of private sector employees in the South Atlantic do not have paid sick leave. <https://www.bls.gov/news.release/ebs2.t06.htm>. $3,484,700 \times 0.29 = 1,010,563$.

¹⁴ The Federal Reserve Bank of St. Louis shows 169,000 state government employees and 411,400 local government employees in Virginia in its most up-to-date displays accessed on October 12, 2026, <https://fred.stlouisfed.org/series/SMS510000090920000001> and <https://fred.stlouisfed.org/series/SMU510000090930000001A>. The U.S. Bureau of Labor Statistics, National Compensation Survey, March 2026 indicates eight percent of state and local government employees in the South Atlantic do not have paid sick leave. <https://www.bls.gov/news.release/ebs2.t06.htm>. $(169,000 + 411,400) \times 0.08 = 46,432$.

¹⁵ See Code § 2.2-4007.04 (D).

¹⁶ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

¹⁷ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

¹⁸ See Code § 2.2-4007.04 (A.2). and Code § 2.2-4007.1 (C).

¹⁹ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

²⁰ Code § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Projected Impact on Employment

While the legislation may have some impact, the proposed regulation is unlikely to have substantive impact on employment.

Effects on the Use and Value of Private Property

The proposed regulation is unlikely to have substantive impact on the use and value of private property, including real estate development costs.