



COMMONWEALTH of VIRGINIA

DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport
COMMISSIONER

October 30, 2020

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Division of Legislative Automated Systems (DLAS)
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Attention: Legislative Documents and Reports Processing

Attached is the Department of Labor and Industry's *Annual Report on the State's Minimum Wage Program, Anti-Discrimination in Payment of Wage Program, Anti-Discrimination in Worker Misclassification Program and the Prevailing Wage Rate Program*. The Appropriation Act - Item 120 B.1. (Regular Session, 2020) required the Department to make this report. It included a requirement to report on the Earned Sick Leave Program, but that legislation was not enacted. It also required information on the Minimum Wage Program and the Prevailing Wage Rate Program, but their effective dates are May 1, 2021 so information will be included on those programs for the report due November 1, 2021.

I am the contact person for this report. My contact information is:

Robert B. Feild
804-786-4777
robert.feild@doli.virginia.gov

Sincerely,

A handwritten signature in black ink that reads "Robert B Feild".

Robert B. Feild
Hearing and Legal Services Officer



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November 1, 2020

The Honorable Janet Howell
Chair, Senate Finance and Appropriations Committee
Virginia General Assembly
900 East Main Street
Richmond, Virginia 23219

The Honorable Luke Torian
Chair, House Appropriations Committee
Virginia General Assembly
900 East Main Street
Richmond, Virginia 23219

Daniel Timberlake
Director, Department of Planning and Budget
1111 East Broad Street, Room 5040
Richmond, Virginia 23219-1922

Dear Senator Howell, Delegate Torian, and Director Timberlake:

Appropriation Act - Item 120 B.1. (Regular Session, 2020) required the Department of Labor and Industry to report on the state's minimum wage program, earned paid sick leave program, anti-discrimination in payment of wage program, anti-discrimination in worker misclassification program, and the prevailing wage rate program:

B.1. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's minimum wage program, including, but not limited to, the number of (i) customer contacts concerning minimum wage, (ii) minimum wage claims processed, (iii) cases with wages collected, (iv) cases with claims ruled invalid, (v) cases with final orders issued, and (vi) cases cleared within 90 days.

2. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's earned paid sick leave program, including, but not limited to, the number of (i) customer contacts concerning earned paid

sick leave, (ii) sick leave claims processed, (iii) cases with earned paid sick leave claims resolved, whether for accrual of time, use of time, notice and posting, or retaliation (iv) claims not substantiated, (v) cases taken to court, and (vi) cases cleared within 90 days, not to include cases adjudicated in court.

3. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's anti-discrimination in payment of wage program, including, but not limited to, the number of (i) customer contacts concerning discrimination involving payment of wage complaints or proceedings, (ii) payment of wage discrimination complaints processed, (iii) meritorious complaints with payment of wage discrimination resolved with either reinstatement or recovery of lost wages, (iv) non meritorious complaints, i.e. cases with no adverse action or no protected activity, and (v) cases taken to court.

4. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's anti-discrimination in worker misclassification program, including, but not limited to, the number of (i) customer contacts concerning discrimination involving worker misclassification, (ii) discrimination in worker misclassification claims processed, (iii) meritorious complaints with worker misclassification wage discrimination resolved with either reinstatement and/or recovery of lost wages, (iv) non meritorious complaints, i.e. cases with no adverse action or no protected activity, and (v) cases taken to court.

5. The Department shall report to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, and the Director, Department of Planning and Budget, by November 1 of each year on the state's prevailing wage rate program, including, but not limited to, the number of (i) contacts from state agencies to determine the proper prevailing wage, (ii) prevailing wage determinations for the involved planning district calculated using Davis-Bacon rates for the cities and counties within the planning district, and (iii) contractor provided scale of pay and fringe benefits certified and received.

This letter provides the information requested on the newly passed programs in the Department's Labor Law Division.

B.1. asks for information on the minimum wage program. The effective date for the new minimum wage law is May 1, 2021. The Department will report on the information required on November 1, 2021.

B.2. asks for information on the earned paid sick leave program, but that legislation did not pass so no information is included about it.

B.3. asks for information about the anti-discrimination in payment of wage program. The effective date for this law was July 1, 2020. The pandemic affected the implementation of this

program. The Governor imposed a hiring freeze for state agencies on April 2, 2020. We needed authorization from the Secretary of Commerce and Trade to hire the new employees required to enforce this law and the anti-discrimination in worker misclassification provision. (B.4.) The Department was given authority to hire the four new employees for the anti-discrimination positions on August 25, 2020. We had one compliance officer in place as of October 10, 2020 and the attorney began October 25, 2020. The hiring process is ongoing for the other two compliance officers and they should be in place soon.

Anti-Discrimination in Payment of Wage	
Customer Contacts	0
Complaints Processed	0
Meritorious Complaints Resolved	
- Reinstatement	0
- Recovery of Lost Wages	0
Non Meritorious Complaints	0
Cases Taken to Court	0

B.4. asks for information about the anti-discrimination in worker misclassification program. The effective date for this law was July 1, 2020. The hiring situation noted in response to the above item applies in this item.

Anti-Discrimination in Worker Misclassification	
Customer Contacts	2
Complaints Processed	1 completed, 1 still under investigation
Meritorious Complaints Resolved	
- Reinstatement	0
- Recovery of Lost Wages	0
Non Meritorious Complaints	1
Cases Taken to Court	0

B.5. asks for information on the prevailing wage rate program. The effective date for this law is May 1, 2021. The Department will report on the information required on November 1, 2021. One of the first activities for our newly hired employees in the anti-discrimination programs will be to publicize these new protections for workers on our website and through any other appropriate means. I look forward to reporting on these programs next November,

Sincerely,



C. Ray Davenport
Commissioner