



COMMONWEALTH of VIRGINIA
DEPARTMENT OF LABOR AND INDUSTRY

C. Ray Davenport
COMMISSIONER

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November 1, 2021

Division of Legislative Automated Systems (DLAS)
Pocahontas Building, 5th Floor
900 East Main Street
Richmond, Virginia 23219

Attention: Legislative Documents and Reports Processing

Attached is the Department of Labor and Industry *Annual 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*. 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.

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 cursive script that reads "Robert B. Feild".

Robert B. Feild
Hearing and Legal Services Officer



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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 was May 1, 2021. The Department anticipates that the January 1, 2022 increase in the minimum wage and each subsequent increase will lead to more contacts and claims. Entry wages in many areas of the state are above the current minimum wage in Virginia.

Minimum Wage Enforcement	
Customer Contacts	591
Minimum Wage Claims Processed	39
Cases with Wages Collected	5
Cases Ruled Invalid	18

Cases with Final Orders Issued	0
Cases Cleared in 90 Days	23

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 pandemic continues to impact the number of complaints we are receiving in all labor law programs. We have posted information on our website concerning the two anti-retaliation programs but have not yet been able to do outreach on them due to pandemic restrictions. As more people become aware of these protections we anticipate some increase in complaints. The personnel assigned to the anti-retaliation positions have been assisting with responding to the over 19,000 COVID-19 contacts the labor law division has received, assisting with other payment of wage cases and since July responding to contacts about the new overtime wage act.

Anti-Discrimination in Payment of Wage	
Customer Contacts	89
Complaints Processed	11, one case still open
Meritorious Complaints Resolved	
- Reinstatement	0
- Recovery of Lost Wages	0
Non Meritorious Complaints	10
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 situation noted in response to the above item applies in this item as well.

Anti-Discrimination in Worker Misclassification	
Customer Contacts	68
Complaints Processed	2, 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 was May 1, 2021. The Department did not receive many contacts at the beginning of the program. Some local governments have adopted or are in the process of adopting prevailing wage ordinances. We will include contacts from localities in next year's report.

Prevailing Wage	
Contacts with State Agencies to Determine Proper Prevailing Wage	131
Prevailing Wage Determinations	131
Certified Pay and Fringe Benefit Scales Received	3

I look forward to reporting on these programs next November,

Sincerely,

A handwritten signature in blue ink that reads "C. Ray Davenport". The signature is written in a cursive style with a large, prominent "C" at the beginning.

C. Ray Davenport
Commissioner