

2019 VA General Assembly passes only a few employment-related bills

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The regular session of the 2019 Virginia General Assembly has ended. The session convened on January 9 and adjourned on February 24. The reconvened session is scheduled for April 3. During the regular session, approximately 35 labor and employment bills were introduced, but only three were passed and sent to Governor Ralph Northam for his signature.

Completed actions

Minimum wage exemptions. In an effort to modernize Virginia's minimum wage law, the General Assembly passed **House Bill (HB) 2473**, which repeal certain minimum wage exemptions that were viewed as Jim Crow-era legalized wage discrimination against African Americans. The legislation rescinds laws that allowed employers to pay less than minimum wage to newsboys, shoeshine boys, ushers, doormen, concession attendants, cashiers in theaters, and babysitters who work 10 hours or more per week.

In 2018, a similar bill with the same intent died in committee. This year, the measure passed the senate 37-3 on January 18. On February 13, the house voted 18-14 in favor of a modified version of the bill. Two days later, the senate unanimously approved that version and sent it to Governor Northam to be signed into law.

Help for new mothers. Two bills facilitating employees' ability to express breast milk were introduced this session. One passed, while the other was abandoned in committee.

The bill that passed the house and senate, **HB 1916**, requires the Virginia Department of Human Resource Management to develop state personnel policies that provide for break time during which mothers may express breast milk. The policies will require each state agency to provide:

1. Reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time the employee has a need to express breast milk; and
2. A place, other than a bathroom, that is shielded from view and free from intrusion by coworkers and the public and may be used by an employee to express breast milk.

The bill that stalled in committee, HB 1862, would have required all employers to provide reasonable unpaid break time each day to employees who need to express breast milk for nursing children and to make reasonable efforts to provide a room or other location, other than a bathroom, where employees can express breast milk in privacy.

Written wage statements. The General Assembly also passed **SB 1696**, which require every Virginia employer to provide employees, on each regular payday, a written statement on their pay stub or through online accounting that shows:

1. The name and address of the employer;
2. The number of hours the employee worked during the pay period; and
3. The employee's rate of pay.

Currently, employers must provide a written statement of employees' gross wages and any deductions only upon request. The new measure

doesn't apply to agricultural employment and has a delayed effective date of January 1, 2020.

Unfinished business

Covenants not to compete. A bipartisan bill prohibiting employers from entering into, enforcing, or threatening to enforce covenants not to compete with low-wage workers passed the senate as well as the House Commerce and Labor Committee. However, the General Assembly ended before the bill could be put up for a vote in the house.

Given the bill's bipartisan support, similar legislation may be introduced again next year. According to Delegate Schuyler VanValkenburg (D-Richmond), the proposed legislation is probusiness as well as proemployee because noncompete agreements hinder businesses from hiring talented employees and prevent employees from starting their own companies.

Minimum wage increases. At least four bills introduced in the General Assembly this session proposed to raise Virginia's minimum wage, which is set at the federal floor of \$7.25 an hour. None of the measures made it into law, and most were left in committee. A bill passed in the Senate Commerce and Labor Committee by a 9-5 vote would have mandated annual increases to the hourly minimum wage, raising it to \$8 this year and reaching a final rate of \$11.25 in 2022. Another bill that would have increased the minimum wage to \$10 this year, \$13 next year, and \$15 by 2021 made it through committee but was defeated in the senate by a vote of 21-19.

Although none of the efforts to increase the state minimum wage was successful this year, it's likely that similar efforts will be undertaken when the General Assembly convenes for its 2020 session.

Wage history. A senate bill that would have prevented employers from requiring as a condition of employment that prospective employees provide or disclose their wage or salary history was defeated in committee. The proposal also would've prohibited employers from attempting to obtain

prospective employees' wage or salary history from current or former employers.

Nonpayment of wages. House bills designed to allow employees to file individual claims against employers that fail to pay wages didn't make it out of committee. Other bills that died in committee included a bill to authorize the commissioner of labor and industry to investigate and proceed against employers suspected of nonpayment of wages and one that would have prohibited employers from retaliating against employees who complain about the failure to pay wages.

Bottom line

The General Assembly made no significant changes to Virginia's employment laws in 2019, especially for private-sector employers. However, the bills that were introduced but didn't make it into law show that change is in the air for the minimum wage, restrictive covenants, and policies to assist working mothers. Keep an eye out for our coverage of the 2020 General Assembly to see how legislative proposals in those and other emerging areas of the law will fare with senators and delegates next year.

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