


Government of the District of Columbia  
Office of the Chief Financial Officer



**Jeff DeWitt**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeff DeWitt  
Chief Financial Officer 

**DATE:** June 25, 2014

**SUBJECT:** Fiscal Impact Statement – “Protecting Pregnant Workers Fairness Act of 2014”

**REFERENCE:** Bill 20-769, Committee Print as provided to the Office of Revenue Analysis on June 12, 2014

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**Conclusion**

Funds are not sufficient in the FY 2014 budget, and proposed FY 2015 through FY 2018 budget and financial plan to implement the bill. The proposal is estimated to increase local fund expenditures by \$118,000 in FY 2015 and by approximately \$494,000 over the four-year financial plan period.

**Background**

The bill requires employers to make reasonable accommodations<sup>1</sup> for employees experiencing limitations due to pregnancy, childbirth, breastfeeding, or related medical conditions. Employers may not take adverse action against an employee who requests accommodation; employers also may not require an employee to accept an accommodation, or take leave when the employer can provide a reasonable accommodation. Employers are not required to provide an accommodation if they can demonstrate that it would impose undue hardship<sup>2</sup> on the employer’s business. Employers must give employees written notice of their rights under this bill upon hire, within 120 of the

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<sup>1</sup> The bill defines “reasonable accommodations” as “an accommodation that can be made that does not cause undue hardship in the operation of the employer’s business. Reasonable accommodations include: more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, seating, temporary transfer to a less strenuous or hazardous position, job restructuring, light duty, break time and private non-bathroom space for expressing breast milk, refraining from heavy lifting assistance with manual labor, or modified work schedules.”

<sup>2</sup> The bill defines “undue hardship” as “any action that requires significant difficulty or expense when considered in relation to factors such as the size of the business, its financial resources, and the nature and structure of its operation.”

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FIS: "Protecting Pregnant Workers Fairness Act of 2014," Bill 20-769, Committee Print as provided to the Office of Revenue Analysis on June 12, 2014.

effective date of the bill, and within ten days of when an employee notifies an employer she is pregnant.

The bill requires the Department of Employment Services (DOES) to educate employers and employees about requirements of this bill, and to enforce its provisions. The bill establishes the following penalties for non-compliance:

- An employer's wilful violation is subject to a civil penalty of \$1,000 for the first offense, \$1,500 for second offense, and \$2,000 for the third and each subsequent offense;
- If DOES determines violations by an employer, it must order an employer to pay back wages to the employee and reasonable attorney fees. Employers may also be ordered to reinstate the employee (or other relief);
- DOES may require the employer to compensate the District up to \$500 per day the District spent investigating and remedying the violation; and
- Employers who do not notify employees of rights under the bill, may be fined \$50 per day that an employer fails to post the notice, not to exceed \$250, provided the violation is not wilful.

Lastly, the bill allows for employees and the District to initiate a civil or administrative action to seek remedy.

### **Financial Plan Impact**

Funds are not sufficient in the FY 2014 budget, and proposed FY 2015 through FY 2018 budget and financial plan to implement the bill. The bill imposes new requirements on DOES to educate the public and enforce the provisions of this bill. It is estimated that DOES will require one compliance specialist to implement the enforcement provisions of the bill, although there is uncertainty about the level of complaints that will result from this bill. To perform the education function outlined in the bill, DOES expects to engage the Office of Human Rights (OHR) via a Memorandum of Understanding to develop courses of instruction and conduct ongoing public education efforts to employers and employees. OHR will require the equivalent of a half of an analyst position to complete this work.

<b>Cost of implementing Bill 20-769 "Protecting Pregnant Workers Fairness Act of 2014" FY 2014-FY 2018</b>						
	<b>FY 2014<sup>(a)</sup></b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>Total</b>
<b><i>Personal Services Costs for enforcement and education at DOES and OHR<sup>(b)</sup></i></b>	<b>\$0</b>	<b>\$118,193</b>	<b>\$121,738</b>	<b>\$125,390</b>	<b>\$129,152</b>	<b>\$494,473</b>

(a) Assumes law will be effective at the start of FY 2015.

(b) Assumes one and a half career service positions at Grade 12, Step 1.