OFFICE OF FISCAL ANALYSIS

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sHB-5003
AN ACT IMPLEMENTING A PAID FAMILY MEDICAL LEAVE PROGRAM.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 $	FY 21 $	FY 22 $
Labor Dept.	GF - Cost	None	None	300,000 - 625,000
State Comptroller - Fringe Benefits[1]	GF - Cost	None	None	114,689 - 238,938
Treasurer	GF - Cost	Up to 75,000	None	None
Treasurer, Debt Serv.	GF - Cost	None	Up to 500,000	Up to 2,000,000
Labor Dept.; Treasurer	Family and Medical Leave Insurance Trust Fund - Cost / Revenue	See Below	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 20 $	FY 21 $	FY 22 $
Various Municipalities	Potential Cost	None	None	See Below

Explanation

The bill: 1) expands the state's current Family Medical Leave Act (FMLA) as it applies to the private sector; and 2) establishes a Family and Medical Leave Insurance (FMLI) program. This results in a significant annual state cost beginning as early as FY 20. The impact is

[1]The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.23% of payroll in FY 20 and FY 21.

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explained in detail below.

FAMILY MEDICAL LEAVE ACT EXPANSION

The bill expands the FMLA by reducing, from 75 to one, the minimum number of employees that makes an employer subject to FMLA beginning July 1, 2021. The bill also extends allowable leave under FMLA to caring for grandparents, grandchildren, siblings, all other blood relatives, or those with a "close association…the equivalent of a family member" in addition to relatives covered under current law. In addition, the bill extends the benefit from 16 weeks every 24 months to 12 weeks every 12 months. The FMLA expansion aligns with the terms of the FMLI program.

Expanded FMLA Administrative Costs

The expansion of the existing FMLA program results in a cost to the Department of Labor (DOL) of between $414,690 and $863,938 beginning in FY 21, associated with hiring between four and eight additional staff. At the top of the range, DOL would need to hire two Principal Attorneys ($100,000 for salary and $38,230 for fringe benefit costs), five Staff Attorneys ($75,000 for salary and $28,673 each for fringe benefit costs), and one Administrative Assistant ($50,000 for salary and $19,115 for fringe benefit costs).

The estimate is based on the current costs for handling all FMLA inquiries and investigating complaints of alleged violations. There are currently approximately 2,900 employers with 840,000 employees covered by existing FMLA law; under the bill's FMLA expansion, an estimated 103,600 employers with approximately 1,456,000 employees will be covered.[2]

[2] Source: Department of Labor

FAMILY AND MEDICAL LEAVE INSURANCE

FMLI Program – Start-up Costs

The bill establishes the FMLI program to provide wage replacement benefits to covered employees taking leave under certain circumstances. The program will incur start up administrative costs to DOL of at least $13.6 million prior to FY 22. The start-up costs include approximately $4.7 million in salaries and fringe benefit costs, $7.7 million for information technology, $776,700 for overhead and capital needs, and $340,000 for outreach and marketing.[3]

The bill includes an authorization of $20 million of General Obligation (GO) bonds ($10 million for start-up costs in each of FY 20 and FY 21). To the extent that the bonding authorized in the bill is fully allocated and expended, debt repayment of up to $500,000 on the bonds could begin as early as FY 20. Total debt service costs for $20 million of GO bonds issued at market rates in FY 19 and FY 20 is estimated to be approximately $30 million between FY 20 and FY 40.

The bill results in one-time costs to the State Treasurer associated with the establishment of the FMLI Trust Fund of up to $75,000, which includes funding for legal fees and asset allocation consultation.

Though bond funds are authorized for DOL's programmatic start-up costs, it is possible they will be allocated in such a manner as to allow their use for costs incurred by the Office of the State Treasurer.

The bill specifies that any funds expended from the General Fund for the purpose of administering the FMLI program, or providing compensation to employees, be reimbursed no later than October 1,

[3] Section 413 of PA 15-5 JSS required the Labor Commissioner to contract with a consultant to create an implementation plan for a paid family and medical leave program by October 1, 2015, including an actuarial analysis and report on the employee contribution level needed to ensure sustainable funding and administration for the program.

2021.[4]

FMLI Program – Ongoing Costs

There will be ongoing annual administrative and investment costs associated with the FMLI as a result of the bill. Beginning in FY 21, the ongoing administrative expenses are estimated to be at least $18.6 million annually, including fringe benefits.[5]

The bill specifies the ongoing costs of administering the FMLI program are to be covered by the FMLI Trust Fund, which receives revenue from employee contributions. Such contributions are required to be collected by the start of FY 21. To the extent that there are ongoing administrative and investment costs prior to funding being available in the FMLI and prior to October 1, 2021, these costs are assumed to be paid through the General Fund, and later reimbursed by the FMLI Trust Fund.

FMLI State Employee Impact

The bill separates state employees into two categories for the purpose of FMLI program participation: employees with and without a collective bargaining unit.

State Employees with a Bargaining Unit

For those state employees with a collective bargaining unit, the bill allows these state employees to opt-in through collective bargaining. To the extent that otherwise excluded employees participate in the program through collective bargaining agreements, there is the potential for increased costs to the state beginning in FY 22 associated with the expansion of leave benefits and subject to the negotiated

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[4] This analysis assumes that the debt service costs associated with the bonds authorized within the bill will not be repaid by the FMLI Trust Fund, as the majority of the debt repayment would not be incurred until after the October 1, 2021 FMLI Trust Fund repayment date.

[5] Source: "Implementing Paid Family and Medical Leave Insurance Connecticut" Institute for Women's Policy Research, 2015 pursuant to a contract with the Labor Department

terms that allow them to participate in the program.

State Employees without a Bargaining Unit

The bill includes state employees without a collective bargaining unit in the FMLI program from its establishment. As there is no employer contribution, there is no expected impact to the state from their participation through FY 21. Beginning in FY 22, there is potential for a minimal increase in personnel costs, which is largely mitigated in three key ways: 1) the share of state employees covered is relatively low; 2) accumulation of overtime or other shift-covering personnel requirements is uncommon for non-collective bargaining unit employees; and 3) the impact of the program represents a marginal increase in use of leave compared to use under current law.

State employees who are not covered by a collective bargaining unit represent a relatively small portion of the state workforce. For example, approximately 11 percent of full-time equivalents paid from the General Fund are employees without a collective bargaining unit.

An increase in personnel costs would only be expected to occur in situations where overtime, temporary hires, or other measures were necessary to ensure proper employee coverage. Non-collective bargaining unit employees are highly unlikely to be in positions where such shift coverage concerns are present. For example, less than $630,000 of General Fund overtime costs were incurred by non-collectively bargaining employees in FY 18, which represents less than 0.3% of all General Fund overtime costs in that year.

Lastly, the potential increase in personnel costs refers only to the marginal increase in leave taken or extended due to the availability of paid leave, where shorter or no leave would have been taken in absence of the program. The marginal nature of the increase here also applies to potential increases for collectively bargained state employees (discussed above) and municipal employees (discussed below).

FMLI Municipal Employee Impact

The bill excludes municipal employees from participation in the FMLI program. However, as with state employees who are covered by a collective bargaining unit, the bill allows these municipal employees to opt-in through collective bargaining. Current law does not preclude municipal employees from collectively bargaining for any type of paid leave program. To the extent that municipal employees choose to collectively bargain for the FMLI benefits established by the underlying bill, there is a cost to municipal employers associated with the expansion of leave benefits. Such costs would be subject to the terms of municipal collective bargaining agreements.

The bill also specifies that municipal employees outside of collective bargaining units would not be participants in the program until and unless a collective bargaining unit of their municipality negotiates inclusion into the program. As collectively bargained employees are estimated to represent greater than 95% of municipal employees, there is limited potential for increased municipal costs from inclusion of non-collectively bargaining municipal employees in the program, similar to the potential for minimal costs described for state employees outside of collective bargaining units.

The Out Years

Ongoing costs for FMLI program administration and employee compensation are expected to be funded by revenues generated by employee contributions and the proceeds of investments of the resources of the FMLI Trust Fund beginning in FY 21.

The increased administrative cost for the expansion of existing FMLA benefits will begin in FY 22.

The annualized ongoing fiscal impact of FMLI and the expansion of FMLA will continue into the future subject to inflation.

Repayment of GO bonds would occur according to the debt service repayment schedule established when the bonds are issued.