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sSB-881
AN ACT ESTABLISHING A PAID FAMILY AND MEDICAL LEAVE PROGRAM.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 $	FY 21 $
Labor Dept.	GF - Cost	300,000 - 625,000	300,000 - 625,000
State Comptroller - Fringe Benefits[1]	GF - Cost	132,570 - 257,438	132,570 - 257,438
Treasurer	GF - Cost	Up to 75,000	None
Labor Dept.; Treasurer	Family and Medical Leave Insurance Trust Fund - Cost / Revenue	See Below	See Below
Labor Dept.	Various - Potential Cost	See Below	See Below

Note: Various=Various; GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 20 $	FY 21 $
Various Municipalities	Potential Cost	See Below	See Below

Explanation

The bill: 1) expands the state's current Family Medical Leave Act (FMLA); and 2) establishes a Family and Medical Leave Insurance (FMLI) program. This results in a significant annual state cost

[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 41.19% of payroll in FY 20 and FY 21.

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beginning as early as FY 20. The impact is 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, and siblings 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 $423,570 and $882,438 beginning in FY 20, 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 $41,190 for fringe benefit costs), five Staff Attorneys ($75,000 for salary and $30,893 each for fringe benefit costs), and one Administrative Assistant ($50,000 for salary and $20,595 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 1,500,000 employees will be covered.[2]

The estimated number of employees in the expanded scenario above include the approximately 44,000 full time state employees. The expansion would also include a portion of approximately 9,000 part time state employees who meet eligibility criteria and an unknown number of employers with a workforce that is primarily self-employed

[2] Source: Department of Labor

contractors paid through IRS Form 1099-MISC.[3]

State Employee Impact

Beginning in FY 20, there is potential for a minimal increase in personnel costs from the expansion of FMLA which includes state employees. The impact of the FMLA expansion represents a marginal increase in use of leave compared to use under current law and existing benefits.[4]

The potential increase in personnel costs is mitigated in two ways: 1) accumulation of overtime or other shift-covering personnel requirements does not apply to all state employees; and 2) the impact of the program represents a marginal increase in use of leave compared to use under current law.

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. In FY 18, approximately 17,000 state employees paid from the General Fund accumulated some amount of overtime pay.[5] The increased personnel costs will primarily impact certain state agencies with large numbers of employees who would need shift coverage.[6] For the majority of agencies, the workload of employees on leave will be absorbed among co-workers and would have little to no fiscal impact on the state.

The potential increase in personnel costs refers only to the marginal increase in leave taken or extended due to the additional availability of leave, where no or shorter leave would have been taken in absence of

[3] Since organizations issuing 1099-MISCs to individuals do not consider those individuals employees, they do not include information regarding those individuals in the employee information included in their quarterly returns.
[4] Existing FMLA protections are enumerated in a different statute (CGS Sec. 5-248a) than the statute being expanded in this bill (CGS. Sec. 31-51kk).
[5] Nearly 34,000 full time state employees are paid via the General Fund.
[6] In FY 18, Department of Corrections, Department of Children and Families, Department of Mental Health and Addiction Services, Department of Developmental Services, Department of Emergency Services and Public Protection, and the Judicial Department all had greater than 1,000 employees accumulate overtime.

the expansion. As full time state employees generally have access to a variety of paid time off and there are policies in place to allow for unpaid leave longer than what is required by statute, the increase in unpaid leave due to the expansion of the FMLA for state employees, along with the associated costs, is expected to be minimal.

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, or an existing quasi-public designated by the Labor Commissioner,[7] of at least $13.6 million prior to January 1, 2022.[8] The majority of the start-up costs are expected to be incurred prior to the start of initial revenue collection, October 1, 2021. The start-up costs include at least $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.[9] As there is no funding source specified in the bill, these costs are assumed to be to the General Fund.

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.

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 to the General Fund.

[7] There is no quasi-public for FMLI established in the bill, nor are existing quasi-publics empowered to administer the program.

[8] The bill specifies that compensation under the FMLI program is to begin January 1, 2022.

[9] 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.

However, the timing of the reimbursement from the FMLI Trust Fund to the General Fund is to be determined by the program administrator. This reimbursement would apply to both start-up and ongoing costs.

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.[10]

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. To the extent that there are ongoing administrative and investment costs prior to revenue collection within the FMLI, these costs are assumed to be paid through the General Fund, and later reimbursed by the FMLI Trust Fund.

Private Plan Option Cost

Section 8 of the bill allows employers to provide the same or better FMLI benefits for the same or lesser cost to their employees. These private plans must meet specified requirements and are subject to initial review and ongoing oversight by the FMLI administrator to ensure private implementation meets or exceeds the FMLI benefits.

To the extent that employers pursue a private option for their employees, the review and administration of private plan options results in a potential cost to DOL of approximately $635,355 beginning not later than the start of collection for the FMLI (October 1, 2020). This cost is associated with hiring six additional staff - a Principal Attorney ($100,000 for salary and $41,190 for fringe benefit costs), four Staff Attorneys ($75,000 for salary and $30,893 each for fringe benefit costs), and one Administrative Assistant ($50,000 for salary and $20,595 for

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

fringe benefit costs).

Employees participating in a private plan would not generate revenue to the FMLI Trust Fund. It is not clear that the revenues deposited in the FMLI Trust, which are primarily generated from participating employee contributions, are able to be used for review and oversight of private alternatives to the FMLI program.

If FMLI Trust funds cannot be used for state review and oversight of private plans, these costs will be in addition to the ongoing costs associated with administration of the FMLI program and are assumed to be paid from the General Fund.

Alternatively, if FMLI Trust funds may be used for the costs of oversight of private alternatives, these additional administrative costs would be paid from revenues contributed by employees participating in the FMLI program. The bill requires the administrator to maintain the fund's solvency, including by allowing the increase of the participating employee contribution rate.[11]

FMLI State Employee Impact

The bill excludes state employees from the FMLI program. However, state employees with a collective bargaining unit may opt-in to the program 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 23 associated with the expansion of leave benefits, similar to the potential impact to state employees from the FMLA expansion described above, and subject to the negotiated terms that allow them to participate in the program.

FMLI Municipal Employee Impact

The bill excludes municipal employees from participation in the

[11] The bill requires that employee costs for private plans are no higher than those in the FMLI program. If the FMLI contribution rate increases, the bill allows private plan rate increases with FMLI administrator approval.

FMLI program. However, as with state employees who are covered by a collective bargaining unit, the bill allows certain municipal employees to opt-in through collective bargaining.[12] 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 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, with the possible exception of the review of private alternatives to FMLI described above.

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

[12] The bill allows municipal employees to opt in to the FMLI through collective bargaining, but does not include a similar provision for those employed by boards of education.