

OFFICE OF FISCAL ANALYSIS

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SB-1

AN ACT CONCERNING PAID FAMILY AND MEDICAL LEAVE. AMENDMENT

LCO No.: 9302

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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	123,570 - 257,438
Treasurer	GF - Cost	Up to 75,000	None	None
Paid Family and Medical Leave Insurance Authority; Treasurer	Family and Medical Leave Insurance Trust Fund - Cost / Revenue	See Below	See Below	See Below
Labor Dept.; Department of Revenue Services	Various - Cost / Revenue	See Below	See Below	See Below

Note: GF=General Fund; Various=Various

Municipal Impact:

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

Explanation

¹The 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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The amendment strikes the underlying bill and its associated fiscal impact.

The amendment 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 explained in detail below.

FAMILY MEDICAL LEAVE ACT EXPANSION

The amendment expands the FMLA by reducing, from 75 to one, the minimum number of employees that makes an employer subject to FMLA beginning January 1, 2022. The amendment 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 amendment 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 22, 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 amendment's FMLA

expansion, an estimated 103,600 employers with approximately 1,456,000 employees will be covered.²

FAMILY AND MEDICAL LEAVE INSURANCE

FMLI Program - Start-up Costs

The amendment establishes the Paid Family and Medical Leave Insurance Authority (PFMLIA) as a quasi-public agency and establishes the FMLI program within the authority to provide wage replacement benefits to covered employees taking leave under certain circumstances. The program will incur start up administrative costs to PFMLIA of at least \$13.6 million prior to January 2022.³ 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.⁴ As there is no funding source specified in the amendment, these costs are assumed to be to the General Fund.

The amendment 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 amendment 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, 2021.

² Source: Department of Labor

³ The amendment specifies that compensation under the FMLI program is to begin between January 1 and February 1, 2022

⁴ 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.

FMLI Program - Ongoing Costs

There will be ongoing annual administrative and investment costs associated with the FMLI as a result of the amendment. Beginning in FY 22, the ongoing administrative expenses are estimated to be at least \$18.6 million annually, including fringe benefits.⁵ To the extent PFMLIA uses its authority to contract for some administrative services, the distribution of start-up and ongoing administrative costs may change. Likewise, the amendment allows PFMLIA to enter into MOUs with DOL and the Department of Revenue Services for some ongoing administrative functions of the program. Costs and revenues for services described in an MOU would be subject to the terms of the MOU, including reimbursement from the FMLI Trust Fund to the respective agencies.

The amendment 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 beginning in January 2021. To the extent that there are ongoing administrative and investment costs prior to funding being available in the FMLI Trust Fund 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.

Private Plan Option Cost

The amendment allows employers to provide the same or better FMLI benefits for the same or lesser cost to their employees.⁶ These private plans must meet specified requirements and are subject to initial review and ongoing oversight by PFMLIA to ensure private implementation meets or exceeds the FMLI benefits.

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

⁶ The amendment requires that employee costs for private plans are no higher than those in the FMLI program. The contribution level is capped at 0.5% of salary up to the Social Security contribution and benefit base.

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 PFMLIA of up to \$635,355, beginning not later than the start of collection for the FMLI (January 2021). This cost is associated with hiring additional staff above and beyond administration of the underlying FMLI program. Employees participating in a private plan would not generate revenue to the FMLI Trust Fund.

FMLI State Employee Impact

The amendment 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 amendment 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 January 2022 associated with the expansion of leave benefits and subject to the negotiated terms that allow them to participate in the program.

State Employees without a Bargaining Unit

The amendment 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 January 2022. After the start of benefits in January 2022, 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 proportion of the state workforce. For example, approximately 11 percent of FTEs 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 no or shorter 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 amendment excludes municipal employees from participation in the FMLI program. However, as with state employees who are covered by a collective bargaining unit, the amendment 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 amendment, 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 amendment 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 preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.