

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 514 - SB 647

March 18, 2019

**SUMMARY OF BILL:** Enacts the *Tennessee State Family Leave Act* (Act). Creates in the Treasury a Family and Medical Leave Insurance Fund (the Fund). Authorizes such funds to be used to pay benefits and administer the provisions of this Act. Requires the Treasurer to determine the amount of premiums necessary to finance the family and medical leave insurance program. Requires employers to collect a premium amount determined by the State Treasurer from each employee and to remit the premium to the Treasurer to deposit into the Fund.

Requires an employee to make a claim for benefits in accordance with regulations prescribed by the Department Labor and Workforce Development (DLWD). Requires DLWD to establish and administer the program and pay benefits. Requires the DLWD to maintain consistency to an extent possible with the rules promulgated to implement the federal Family and Medical Leave Act (FMLA).

Requires the DLWD to report to the General Assembly by September 1 of each year on projected and actual program participation, premium rates, fund balances, and outreach efforts. Requires the DLWD to conduct an education campaign to inform workers and employers of the availability of paid family leave and medical leave. This Act is effective upon becoming law for purposes of promulgating rules and for all other purposes is effective January 1, 2020.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenue –**

**\$178,125,000/FY19-20/Family and Medical Leave Insurance Fund**  
**\$356,250,000/FY20-21 and Subsequent Years/Family and Medical**  
**Leave Insurance Fund**

**Increase State Expenditures –**

**\$7,500,000/FY19-20/General Fund**  
**\$15,000,000/FY20-21 and Subsequent Years/General Fund**

**\$178,125,000/FY19-20/Family and Medical Leave Insurance Fund**  
**\$356,250,000/FY20-21 and Subsequent Years/Family and Medical**  
**Leave Insurance Fund**

**Increase Local Expenditures –**

**Exceeds \$20,625,000/FY19-20\***  
**Exceeds \$41,250,000/FY20-21 and Subsequent Years\***

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*Assumptions relative to state and federal government as employers:*

- This Act specifies that the maximum amount of weeks that the TN family and medical leave insurance benefits are payable in an application year is 12 weeks and benefit amounts will be calculated at 2/3 the average weekly wage of the employee; however, the average weekly amounts are set at a minimum of \$30 and a maximum of \$850.
- Based on information provided by the Department of Human Resources, there were approximately 2,562 state employees who took FMLA in FY18-19; and of those state employees the average weekly salary was calculated for a total weekly payout of \$1,174,483; therefore, total benefits for a 12-week period are estimated to be \$14,093,796 (\$1,174,483 benefit salaries x 12 weeks).
- This legislation has fewer eligibility requirements compared to the FMLA; so the number of eligible state employees for the TN Family Medical Leave benefits is reasonably estimated to be greater.
- It is reasonably assumed that Treasury will set premiums at a rate higher than is required to pay benefits in order to cover additional administrative costs; therefore, the recurring increase in state expenditures from the General Fund for state employee benefits is estimated to exceed \$15,000,000.
- It is assumed the provisions of this legislation do not apply to the federal government as an employer because states cannot impose mandated requirements upon the federal government. Therefore, no impact to federal government expenditures.

*Assumption relative to local government as an employer:*

- Based on information found in a 2012 Census Bureau report there are approximately 2.75 times as many employees under local governments compared to state government; therefore, the mandatory increase in local expenditures for local employee benefits is reasonably estimated to exceed \$41,250,000 (\$15,000,000 benefits x 2.75) statewide.

*TN Family Medical Leave Fund:*

- Based on information provided by the Bureau of Labor Statistics, private employment makes up approximately 86 percent, or over 2,700,000 of the workforce in Tennessee.
- This Act allows self-employed individuals and sole proprietors to choose to opt-in to the Fund. The total number of employers that may be exempt from paying premiums cannot be reasonably determined.
- The total amount of recurring premium payments from private employers is reasonably estimated to exceed \$300,000,000.
- The total recurring increase in state revenue to the Fund is estimated to exceed \$356,250,000 (\$15,000,000 from state employees + \$41,250,000 from local employees + \$300,000,000 from private employees).
- It is assumed that any funds deposited to the Fund will be expended from the Fund for purposes consistent with this legislation, including but not limited to, benefits payable, various administrative expenses, and funding for multiple positions within Treasury and

DLWD. Therefore, the recurring increase in state expenditures from the Fund is estimated to exceed \$356,250,000.

*Total Impact Assumptions:*

- This Act is effective upon becoming law for purposes of promulgating rules, and for all other purposes is effective January 1, 2020; it is assumed that administrative costs will be for the full year in FY19-20 and premium collections and benefit payments will not begin until January 2020.
- The total revenue to the Fund is estimated to exceed \$178,125,000 ( $\$356,250,000 \times 50\%$ ) in FY19-20; and exceed \$356,250,000 in FY20-21 and subsequent years.
- The total expenditures from the Fund is estimated to exceed \$178,125,000 ( $\$356,250,000 \times 50\%$ ) in FY19-20 and exceed \$356,250,000 in FY20-21 and subsequent years.
- The total increase in state expenditures from the General Fund is estimated to exceed \$7,500,000 ( $\$15,000,000 \times 50\%$ ) in FY19-20; and exceed \$15,000,000 in FY20-21 and subsequent years.
- The total mandatory increase in local expenditures is estimated to exceed \$20,625,000 ( $\$41,250,000 \times 50\%$ ) in FY19-20; and exceed \$41,250,000 in FY20-21 and subsequent years.

## **IMPACT TO COMMERCE:**

### **Increase Business Expenditures – Exceeds \$300,000,000**

**Other Fiscal Impact – The increase in business expenditures may lead to businesses passing the cost of premiums along to employees; thus decreasing employee disposable income for certain employees. Alternatively, businesses may decrease their workforce; the precise impact on jobs in Tennessee cannot be reasonably determined, but is generally thought to be negative.**

*Assumptions:*

- The provision of this legislation will increase private employer expenditures as a result of paying premiums for the TN Family Medical Leave Act for their employees.
- The total recurring increase in business expenditures is reasonably estimated to exceed \$300,000,000.
- The increase in business expenditures may lead to businesses passing the cost of premiums along to employees; thus decreasing employee disposable income for certain employees, or it could lead to businesses decreasing their workforce in Tennessee.
- The precise impact on jobs in Tennessee cannot be reasonably determined; however, it is generally thought to be negative.

\*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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