VERMONT LEGISLATIVE
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Fiscal Note
March 1, 2023
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H.66 – An act relating to paid family and medical leave insurance

As recommended by the House Committee on General and Housing[1]

Bill Summary

This bill establishes a State-operated paid family and medical leave program. The program would allow Vermont workers to take up to 12 weeks of paid leave, at up to 100% of the state average weekly wage, in a 12-month period. The program would be available to federal employees, State employees, municipal employees, private employees, and self-employed individuals. Workers who earned wages in Vermont in at least two of the four most recent quarters would qualify for the program.

Eligible leave reasons include:

- a serious health condition of the employee
- care for a family member with a serious health condition,
- birth, adoption or foster care initial placement,
- own disability,
- military exigencies and care,
- safe leave, and
- up to two weeks of bereavement leave.

The bill establishes the Division of Family and Medical Leave in the Office of the Treasurer to administer the program. The Department of Taxes would collect revenues to support the program.

The Paid Family and Medical Leave Program would be funded through a payroll tax on wages. In the first year, the bill requires employers to remit contributions for each employee equal to 0.55% of their earned wages up to 200% of the federal Social Security maximum. Employers are required to cover at least 50% of the contribution per employee but may cover a greater amount. Employers will withhold the employee contribution from employees' earned wages and are responsible for remitting on behalf of the employee.

Fiscal Impact

<u>General Fund (FY24 through FY27):</u>

- $20 million will be transferred to the Family and Medical Leave Insurance Special Fund from the

[1] https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20General/Bills/H.66/Drafts,%20Amendments%20and%20Legal%20Documents/H.66~Damien%20Leonard~%20Draft%204.1,%202-16-2023%20with%20Highlights~2-16-2023.pdf

General Fund in fiscal year 2024.[2]

- Annual premiums for State employees and contractors of about $1.9 million will not be paid into the Special Fund for approximately 10 years due to the advance payment of $20 million.
- In fiscal years 2024 through 2026 the Office of the Treasurer is estimated to have approximately $40.4 million in implementation costs. This includes costs for personnel and IT.
- In fiscal years 2024 through 2026 the Department of Taxes is estimated to have approximately $6.6 million in personnel, IT and operational costs.

Family and Medical Leave Insurance Special Fund:

- The annual cost of benefits and associated ongoing administrative costs is estimated to be $94.4 million.
  - The Office of the Treasurer is expected to have approximately $11.0 million in annual ongoing costs for administering the program. This includes $7.0 million annually for personnel costs for 45 to 50 full-time employees and $4.0 million for ongoing IT maintenance.
  - The Department of Taxes is estimated to have approximately $2.0 million in annual ongoing costs for collecting and administering the payroll tax. This includes costs for 15 full-time employees and operational needs.
  - $79.5 million in annual benefit payments.
  - $1.9 million annual credit towards State contributions for employees.
- The 0.55% payroll tax on wages up to 200% of the Social Security maximum is estimated to generate approximately $94.6 million in revenue annually, accounting for the annual $1.9 million credit for state contributions.
- 15 months of tax collections prior to opening the program (July 1, 2025 to September 30, 2026) will generate approximately $118.3 million, equivalent to 12 months of operating expenses and approximately three months of reserve funding.

Background and Details

Section 5. Amendments to Title 21; Establishment of the Program and Funding Mechanisms

- Establishes the Division of Family and Medical Leave in the Office of the Treasurer.
  - Creates one exempt position to serve as the Director of the Division.
  - Anticipates additional positions in the Treasurer's Office to support the program, not yet established or included in the bill.
  - Will require appropriations to the Treasurer's Office to pay for the additional positions.
- The Division will be responsible for implementing, operating, and supervising the Paid Family and Medical Leave program.
- Requires the Department of Taxes collect and administer the payroll tax.
  - An appropriation and additional positions will be necessary for the Department to administer the new tax.
- Establishes the Family and Medical Leave Insurance Special Fund for the payment of benefits and the costs of administering the program.
- JFO estimates ongoing administrative costs for the Division of Family and Medical Leave and the Department of Taxes will be approximately $13.0 million total.
  - Ongoing costs at the Division of Family and Medical Leave are estimated to be approximately $11.0 million annually.
  - Ongoing costs at the Department of Taxes are estimated to be approximately $2.0 million annually.

[2] All dollar values in this fiscal note are in 2022 dollars.

- The bill makes no appropriation for the one-time startup costs associated with establishing the program – including hiring personnel, IT design and implementation, and education and outreach. Those costs will require an appropriation from the General Fund. Currently, the $20 million transfer acts as a placeholder for the appropriations.
- **Overall startup costs expected at the Office of the Treasurer and the Department of Taxes prior to payroll tax contributions being available to cover ongoing costs are presented in the table below and are estimated to be approximately $47.0 million (in 2022 dollars). The expenditures below would need to be made from the General Fund prior to fund startup costs which begin in FY24 at the Treasurer's Office and in FY25 at the Department of Tax. These expenses will occur prior to when payroll tax contributions are available to cover ongoing costs starting October 1, 2026.** Note, the FY 2027 costs represent 3 months of administrative expenses that may be incurred before the Special Fund is available to pay for administrative expenses.

Treasury Department	FY24	FY25	FY26	FY27	Total
Personnel	$600,000	$1,000,000	$7,000,000	$1,750,000	$8,600,000
IT Setup		$15,000,000	$15,000,000		$30,000,000
Total	**$600,000**	**$16,000,000**	**$22,000,000**	**$1,750,000**	**$40,350,000**

Tax Department	FY24	FY25	FY26	FY27	Total
15 FTE's		$810,000	$1,800,000	$450,000	$2,610,000
Upfront Operational Expenses		$75,000			$75,000
Ongoing Operational Expenses		$120,000	$120,000	$30,000	$240,000
Fee for Space		$95,000	$95,000	$23,750	$190,000
Upfront IT		$3,000,000			$3,000,000
Total		**$4,100,000**	**$2,015,000**	**$503,750**	**$6,618,750**

Overall Total	**$600,000**	**$20,100,000**	**$24,015,000**	**$2,253,750**	**$46,968,750**

Payroll tax revenue

- Starting July 1, 2025, the State will begin collecting a payroll tax to fund the program. The payroll tax will be deposited into the Family and Medical Leave Insurance Special Fund. The tax rate is set at 0.55% of wages up to 200% of the Social Security Contribution and Benefit Base in the initial phase of the program. Employers will be required to pay at least 50% of the contribution per employee and are responsible for withholding the employee's contribution and remitting it to the Department of Taxes.
- The initial contribution collection period will be 15 months. Benefits will become available to participants on October 1, 2026. JFO estimates that during this 15-month period the payroll tax will generate $118.3 million to the Family and Medical Leave Special Fund.
- JFO estimates that the payroll tax will generate $94.6 million annually. The payroll tax rate will be set annually on October 1 by the Division of Family and Medical Leave for the upcoming year such that it will generate sufficient revenue to cover the expected cost of benefits and administration in the following calendar year.
- The bill also requires the Division maintain a reserve in the Family and Medical Leave Special Fund equal to nine months of the expected cost of benefits and administration. JFO anticipates that this will be approximately $70.8 million.
- The $20 million appropriation will act as a credit against State contributions for employees. JFO

estimates that this will result in a $1.9 million annual credit against State contributions and will need to be made up by other contributions. This will effectively act as a $1.9 million cost for the program when calculating the tax rate.

- The tax rate cannot exceed 1% of wages. If the Director sets the rate at 1%, the Division shall submit a report to the Joint Fiscal Committee, the House Committees on Appropriations, on General and Housing, and on Ways and Means, and the Senate Committees on Appropriations, on Economic Development, and on Housing and General Affairs that provides a detailed explanation of the reason for the increase. The report will also explain whether that rate will be sufficient to cover projected benefits, administrative costs, and the required reserves in the fund in the coming benefit year. The report must include recommendations for legislative action to reduce the rate of contribution in the following year.
- Businesses may opt out of the program on the condition that they provide their employees with an equivalent or more generous leave program. Businesses that opt out will be entitled to have their contributions refunded from the Family and Medical Leave Special Fund.
- Self-employed individuals may opt into the program. For the purposes of this estimate JFO assumed a 30% opt-in rate for self-employed individuals.

Cost of benefits

- The program allows federal employees, State employees, municipal employees, private employees, and self-employed individuals to take up to 12 cumulative weeks of paid leave in a 12-month period.
- Types of leave include family care, parental, own serious health condition, military exigencies and care, safe and bereavement. Participants may take up to 12 weeks of any one type of leave except for bereavement leave, which is capped at 2 weeks.
- Participants will receive 100% wage replacement up to the state average weekly wage for the duration of their leave.
- JFO estimates that the annual cost of benefits will be approximately $79.5 million.
- To be eligible, participants must have earned wages in Vermont in at least two of the prior four quarters.

Section 9. Advance payment of State contributions

- The bill transfers $20 million to the Family and Medical Leave Special Fund from the General Fund, which will be considered an advance payment of the State's portion of contributions as the employer of State employees.
- The State will get a credit against its contributions equal to the transfer until the cumulative amount of the credit equals the transfer amount.

Section 12. Effective dates

- The bill is effective July 1, 2023
- The payroll tax is effective July 1, 2025
- Benefits become available to participants effective October 1, 2026

Considerations

- Today, only about 40 percent of State employee costs are paid for through the General Fund. Many State employees collect wages that are funded through the designated funds, such as the Transportation Fund, special funds, or through federal government transfers and grants. If the payroll tax is not collected on State employees' wages for 10 years or so, the State will be leaving money on the table because it will not charge those other Funding streams for the Paid Family and Medical Leave employer contribution. In other words, the General Fund will have borne the entire

$20 million employer share when it normally would have paid about $8 million.

- Contributions for almost 15 months will come in before benefits begin, but 21 months of benefits and administrative costs – reflecting 12 months of operating expenses plus 9 months reserve – are needed in the reserve fund, leaving a gap of almost $47.0 million.