VERMONT LEGISLATIVE
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Fiscal Note

March 14, 2023
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H.66 – An act relating to paid family and medical leave insurance

As recommended by the House Committee on Ways and Means[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 90% of the state average weekly wage, in a 12-month period. The program would be available to 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.

The bill would provide a refundable credit to enrollees with $25,000 or less in earned income. Enrollees earning between $15,000 and $25,000 would be eligible for a $70 credit. Those earning $15,000 or less would be eligible for a $40 credit.

[1] https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Ways%20and%20Means/Bills/H.66/H.66~Damien%20Leonard~%20Draft%204.2,%203-14-2023~3-14-2023.pdf

Fiscal Impact

General Fund (fiscal year 2024):

- In fiscal year 2024, $58.8 million would be transferred to the Family and Medical Leave Insurance Special Fund from the General Fund to fund the reserve requirements. This represents six months of expected costs in FY 2027.[2]
- In fiscal year 2024, $46.2 million would be transferred to the Family and Medical Leave Insurance Special Fund for implementation costs incurred by the Division of Family and Medical Leave including personnel and IT setup.
- In fiscal year 2024, $6.5 million would be appropriated to the Department of Taxes from the General Fund for implementation costs including personnel and IT setup.

Summary of Appropriations			
Appropriations	**Amount**	**Fiscal Year**	**Source Fund**
Family and Medical Leave Insurance Special Fund – Reserve Funding	$58,810,448	2024	General Fund
Family and Medical Leave Insurance Special Fund – Implementation	$46,159,585	2024	General Fund
Department of Taxes	$6,504,916	2024	General Fund

Family and Medical Leave Insurance Special Fund:

- Benefits would become available in fiscal year 2027. The estimated cost of benefits, credits and ongoing administrative costs is estimated to be $117.6 million in fiscal year 2027.
  - The Office of the Treasurer is expected to have approximately $11.0 million in administrative costs in fiscal year 2027. This includes $7.0 million 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 $2.4 million in costs for collecting and administering the payroll tax in fiscal year 2027. This includes costs for 15 full-time employees and operational needs.
  - JFO estimates benefit payments in fiscal year 2027 would be $94.1 million.
  - JFO estimates that the refundable credit for individuals with earnings less than $25,000 will cost $10.2 million in fiscal year 2027.
- The 0.55% payroll tax on wages up to 200% of the Social Security maximum is estimated to generate approximately $117.6 million in revenue in fiscal year 2027.
- 12 months of tax collections prior to opening the program (July 1, 2025 to June 30, 2026) will generate approximately $117.6 million, equivalent to 12 months of operating expenses.
- The six months of reserve funding will be paid for with a one-time appropriation from the General Fund to the Family and Medical Leave Insurance Special Fund. This $58.8 million appropriation is equal to half of the estimated costs of the program in fiscal year 2027. This figure represents the amount needed to meet the reserve requirement in fiscal year 2027. If the money is initially appropriated in fiscal year 2024 it will likely earn interest and the full amount may not need to be appropriated initially.

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.

[2] All dollar values in this fiscal note are in 2023 dollars.

  - 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 $13.4 million total.
  - Ongoing costs at the Division of Family and Medical Leave are estimated to be approximately $11.0 million in fiscal year 2027.
  - Ongoing costs at the Department of Taxes are estimated to be approximately $2.4 million annually.

Office of the Treasurer	**FY 2027 Costs**
45-50 FTEs	$7,000,000
Ongoing IT	$4,000,000
Total	$11,000,000
Tax Department	**FY 2027 Costs**
15 FTEs	$2,123,061
Ongoing Operational Expenses	$141,537
Fee for Space	$112,050
Total	$2,376,649
Overall Total	**$13,376,649**

- **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 $52.6 million. The expenditures below would need to be appropriated from the General Fund to the Treasurer's Office in fiscal year 2024 and the Department of Taxes in fiscal year 2025. These expenses will occur prior to the collection of payroll tax contributions, which will begin to cover ongoing costs starting July 1, 2026.**

Treasury Department	FY24	FY25	FY26	Total
Personnel	$1,436,568	$2,334,065	$4,483,261	$8,253,894
Outreach	$250,000	$250,000	$250,000	$750,000
Support	$2,160,671	$2,717,990	$2,277,030	$7,155,691
IT Setup	$0	$15,000,000	$15,000,000	$30,000,000
Total	$3,847,239	$20,302,055	$22,010,291	$46,159,585

Tax Department	FY24	FY25	FY26	Total
15 FTEs	$0	$889,964	$2,051,305	$2,941,269
Upfront Operational Expenses	$0	$82,404	$0	$82,404
Ongoing Operational Expenses	$0	$131,847	$136,754	$268,600
Fee for Space	$0	$104,379	$108,263	$212,642
Upfront IT	$0	$3,000,000	$0	$3,000,000
Total	$0	$4,208,593	$2,296,322	$6,504,916

Overall Total	**$3,847,239**	**$24,510,648**	**$24,306,613**	**$52,644,501**

Payroll tax revenue

- Starting July 1, 2025, the State will collect a payroll tax to fund the program. The payroll tax will be deposited into the Family and Medical Leave Insurance Special Fund. To begin, 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 12 months. Benefits will become available to participants on July 1, 2026. JFO estimates that during this 12-month period the payroll tax will generate $117.6 million to the Family and Medical Leave Insurance Special Fund.
- JFO estimates that the payroll tax will grow at the pace of wage growth. The payroll tax rate will be set annually on October 1 by the Director of the Division of Family and Medical Leave at a rate that 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 Insurance Special Fund equal to 50%, or six months, of the expected cost of benefits and administration. JFO estimates that this will be approximately $58.8 million in fiscal year 2027.
- The $58.8 million appropriation for funding the reserve is anticipated to cover the 50% reserve requirement.
- 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 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 Insurance 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 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, one's own serious health condition, military exigencies, family care, safe and bereavement. Participants may take up to 12 weeks of any type of leave except for bereavement leave, which is capped at 2 weeks.
- Participants will receive 90% wage replacement up to the state average weekly wage for the duration of their leave.
- JFO estimates that the cost of benefits in fiscal year 2027 will be approximately $94.1 million.
- To be eligible, participants must have earned wages in Vermont in at least two of the prior four quarters.

Section 17. Income Tax Credit for Family and Medical Leave Contributions

- The bill allows individuals with wages and self-employed income totaling less than $25,000 in a year to claim a refundable credit.
- Those earning between $15,000 and $25,000 can claim a flat refundable credit of $70.
- Those earning less than $15,000 can claim a flat refundable credit of $40.
- JFO estimates that the cost of providing the credit will be approximately $10.2 million in fiscal year 2027.
- Each year the cost of the credit will be transferred from the Family and Medical Leave Insurance Special Fund to the General Fund.

Section 19. Effective dates

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