SB 19-188

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

REVISED FISCAL NOTE

(replaces fiscal note dated March 12, 2019)

Drafting Number:	LLS 19-0511	**Date:**	April 15, 2019
Prime Sponsors:	Sen. Winter; Williams A. Rep. Gray; Duran	**Bill Status:**	Senate Appropriations
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Bill Topic: FAMLI FAMILY MEDICAL LEAVE INSURANCE PROGRAM

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☐ State Transfer
- ☐ TABOR Refund
- ☒ Local Government
- ☒ Statutory Public Entity

This bill creates a paid family and medical leave insurance program as an enterprise in the Colorado Department of Labor and Employment. Colorado employees and employers will contribute to a monthly premium based on wages to fund a family and medical leave benefit for eligible individuals to care for themselves or family members. The bill will increase state expenditures for the Department of Labor and Employment beginning in FY 2019-20 and for the FAMLI division beginning in FY 2020-21, and will increase state enterprise revenue beginning in FY 2022-23. The bill will also increase expenditures for state agencies, local governments, school districts, and statutory public entities as employers beginning in FY 2022-23.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of $55,552 to the Department of Labor and Employment.

Fiscal Note Status: This revised fiscal note reflects strike-below amendment L.045 and other amendments to the strike-below adopted by the Senate Finance Committee.

Table 1
State Fiscal Impacts Under SB 19-188
*FY 2019-20 to FY 2021-22**

		1st Year FY 2019-20	2nd Year FY 2020-21	3rd Year FY 2021-22
Revenue	FAMLI Fund		$110 million in Bond Revenue	
Expenditures	General Fund	$55,552	-	-
	FAMLI Fund	-	$42,952,186	$2,755,948
	Cash Funds	-	-	-
	Centrally Appropriated	-	$367,487	$367,487
	Total	**$55,552**	**$43,319,673**	**$3,123,435**
	Total FTE	**-**	**16.8 FTE**	**16.4 FTE**
Transfers		-	-	-
TABOR Refund		-	-	-

** The next three fiscal years, FY 2022-23 to FY 2024-25, are shown on the following page.*

Table 1 (cont.)
State Fiscal Impacts Under SB 19-188
FY 2022-23 to FY 2024-25

		4th Year FY 2022-23	5th Year FY 2023-24	6th Year FY 2024-25
Revenue	FAMLI Fund	$531,705,230	$1,120,852,657	$1,177,335,736
	Total	**$531,705,230**	**$1,120,852,657**	**$1,177,335,736**
Expenditures	General Fund	$5,491,130	$11,575,489	$12,300,276
	FAMLI Fund	$5,846,214	$432,721,852	$961,762,110
	Cash Funds	$4,492,743	$9,470,854	$9,948,119
	Centrally Appropriated	$873,258	$2,900,357	$2,932,100
	Total	**$16,703,345**	**$456,668,552**	**$986,942,605**
	Total FTE	**61.1 FTE**	**205.1 FTE**	**207.5 FTE**
Transfers		-	-	-
TABOR Refund		-	-	-

Summary of Legislation

The bill creates the Family and Medical Leave Insurance program and division (FAMLI program and division) as a state enterprise in the Colorado Department of Labor and Employment (CDLE). The purpose of the FAMLI program is to provide partial wage-replacement benefits for up to 12 weeks per year to eligible employees, and employment protection for employees that take leave. The bill requires a premium payment from each employer and employee, with the exception of federal employees and rail carriers. Local governments may choose not to participate. Sole proprietors and local government employees may opt-in to the program. Table 2 shows the division's implementation schedule, as outlined in the bill.

Table 2
Implementation Schedule for SB 19-188

Task	Date
Effective date	Governor's signature
Study results provided to Governor, Legislature, and Board	March 1, 2020
Board recommendations to CDLE Director	June 1, 2020
Program implementation begins	July 1, 2020
Outreach program established	July 1, 2022
Employee and employer premium payments begin	January 1, 2023
FAMLI benefit available	January 1, 2024

Table 2 (cont.)
Implementation Schedule for SB 19-188

Task	Date
First annual reporting to the General Assembly begins	September 1, 2024
First premium rate adjustment	January 1, 2025
First annual maximum weekly benefit adjustment	January 1, 2025
Second premium rate adjustment	January 1, 2026

Applicability and definitions. "Family member" is defined as a person who is related by blood, marriage, domestic partnership, civil union, or adoption, or a person for whom the covered individual is responsible for providing unpaid physical, psychological, health, legal, or financial assistance, as well as support of the type traditionally provided by family. Qualifying events include an individual's serious health condition; caring for a newborn, an adopted child, or a child placed through foster care for the first year; caring for a family member with a serious health condition; and circumstances related to a family member's active military duty. Under the bill, domestic abuse, sexual assault or abuse, and stalking are also defined as serious health conditions for which a person may utilize benefits.

Employee eligibility. An employee is eligible to claim benefits from the program after working 680 hours, or 504 hours in the case of an airline flight crew member, for one or more employers during the employee's qualifying year. Benefits are available to all eligible individuals regardless of their employment, citizenship, or immigration status. The bill specifies procedures for self-employed individuals to elect coverage.

Actuarial and feasibility studies. The CDLE is required to contract for an actuarial study of the FAMLI program and to issue a request for information (RFI) from third parties that may be willing to administer the program. The CDLE will study the feasibility of contracting with a third party, taking into account the short and long term cost-effectiveness for both the state and covered individuals while assuring quality, worker experience, affordability, coverage, and program accountability. The CDLE must provide the results of the studies to the Governor, the General Assembly, and the Family and Medical Leave Insurance Advisory Board (see next paragraph) by March 1, 2020. The executive director of CDLE will make the final determination on how to administer the program.

Advisory board. The bill creates the 15-member Family and Medical Leave Insurance Advisory Board. The members are appointed by the Governor based on criteria included in the bill. Board members serve without compensation, but are entitled to receive reimbursement for expenses. The board will meet at least four times per year and, no later than June 1, 2020, make recommendations to the CDLE executive director based on the actuarial and feasibility studies conducted. The board will also provide comment on rulemaking, policies, implementation, utilization of benefits, and other initiatives. The board is subject to repeal September 1, 2026, following a sunset review.

Outreach. The FAMLI division must develop an outreach program by July 1, 2022, that explains the eligibility requirements, claims process, benefit amounts, notice and medical certification requirements, reinstatement and nondiscrimination rights, confidentiality of records, employment protection, and any other pertinent details, paid for by the newly created FAMLI fund.

Premiums. Employer and employee premium payments begin on January 1, 2023. Premiums are split 60 percent from the employee and 40 percent from the employer. The initial premium amount is set in the bill at 0.64 percent of wages per employee in the program's first two years. Premiums are applied on up to 80 percent of the maximum amount of wages subject to the Social Security Old-Age, Survivors, and Disability Insurance Tax, which will be $124,080 for calendar year 2023. The division is required to set the premium for calendar year 2025 at a rate necessary to obtain a total amount of premium contributions equal to 150 percent of the prior year's claims and 100 percent of the cost of administration. For the 2026 calendar year and each calendar year thereafter, the division is required to set the premium at a rate necessary to obtain a total amount of premium contributions equal to 125 to 150 percent of the prior year's claims and 100 percent of the cost of administration. The premium is capped at 0.99 percent.

Benefits. Beginning January 1, 2024, the FAMLI division will pay benefits from the FAMLI fund using revenue bond proceeds, premiums, and any fines imposed and collected. The amount of benefits an eligible individual can receive is based on the individual's wage in relation to the average weekly wage (AWW) set annually by the CDLE for Workers' Compensation claims. The 2024 AWW is projected to be $1,294. An eligible individual will receive 90 percent of their weekly wage for wages that are less than 50 percent of the AWW and 50 percent of wages that equal or exceed 50 percent of the AWW, up to a maximum weekly benefit of $1,000. Beginning January 1, 2025, the division will annually adjust the maximum weekly benefit amount to equal 90 percent of the AWW. The division must make the first benefit payment to a claimant within 2 weeks after the claim is filed, and weekly or bi-weekly thereafter, for up to 12 weeks.

If the eligible individual is able to continue working at a second job while taking FAMLI leave, the FAMLI division may not consider the eligible individual's weekly wage earned from that second job when calculating his or her weekly benefit amount. The maximum number of weeks for which FAMLI benefits are payable to an eligible individual in any consecutive 52-week period is 12 weeks. The maximum number of weeks for which FAMLI benefits are payable to an eligible individual in aggregate for separate purposes in any consecutive 52-week period is also 12 weeks.

An eligible individual may take intermittent leave in increments of one hour or shorter if consistent with the increments the employer uses to measure employee leave, but the benefit is not payable until the eligible individual accumulates one day or 8 hours of FAMLI leave.

Table 3 below illustrates weekly benefit amounts based on different weekly wage scenarios. The $500 weekly wage is below 50 percent of the AWW forecast for FY 2023-24, so the benefit is $450 (90 percent of $500). All eligible individuals whose salaries exceed 50 percent of the AWW will receive $528.52 (90 percent of $647.25), plus 50 percent of the salary equal to or above $647.25, capped at $1,000. The last column shows the maximum benefit for 12 weeks of FAMLI benefits.

Table 3
Weekly FAMLI Benefit Scenarios

Average Weekly Wage (AWW)	Individual's Weekly Wage	90% of wage below 50% of AWW	50% of wage equal or above 50% of AWW	Total Weekly Benefit*	12-Week Benefit
$1,295	$500.00	$450.00	$0.00	$450.00	$5,400.00
	$1,000.00	$582.52	$176.38	$758.90	$9,106.78
	$1,500.00	$582.52	$417.48	$1,000.00	$12,000.00

** Total weekly benefit may not exceed $1,000 until after January 1, 2025.*

Employment protection. An employer is required to restore an employee to their prior position or a comparable position upon returning from leave if the employee was employed for 90 days or longer prior to taking FAMLI leave. While an employee is on leave, an employer must maintain the employee's benefits and may not discriminate against the employee in response to the employee's actual or requested leave. Job protection is not extended to seasonal employees under the bill.

Coordination of benefits. Where available, paid leave must be taken concurrently with the unpaid, job-secured leave available through the federal Family and Medical Leave Act (FMLA). An employee may supplement FAMLI benefits through vacation, sick, or other paid time off, but employers may not require employees to take any other form of leave during an employee's FAMLI leave. If an employer has a disability or family leave policy already in place, this leave can be taken concurrently with FAMLI leave. For someone with a work-related qualifying event, combined workers' compensation benefits and FAMLI benefits paid can not exceed the covered individual's weekly wage.

Local government employer declination. A local government can decline coverage according to rules set by the FAMLI program director.

Elective coverage. Self-employed individuals and employees of a local government employer that has declined coverage may elect coverage for not less than three years or a subsequent period of not less than one year immediately following another period of coverage. Self-employed individuals, or local government employees whose employer does not participate in the FAMLI program, who choose to opt-in, pay only the employee portion of the premium directly to the FAMLI division.

FAMLI fund. The FAMLI fund is an enterprise fund within the State Treasury, not subject to the state's TABOR limits. The fund may be used only to repay revenue bonds issued to cover start-up costs; collect FAMLI premiums; pay FAMLI benefits to eligible individuals; and cover program administration, advisory committee, and outreach costs. The fund may also receive and spend any gifts, grants, or donations received by the division to finance program set-up costs. The fund is continuously appropriated to the FAMLI division.

Employee disqualification and erroneous payments. An employee who willfully makes a false statement or misrepresentation regarding a material fact or willfully fails to report a material fact is disqualified from receiving FAMLI benefits for one year. The FAMLI division may also develop a procedure for recovering erroneous benefit payments, and may exercise discretion to partially or wholly waive repayment amounts under certain circumstances.

Employer requirements. Employers must collect employee premiums through a payroll deduction and remit the employer and employee contributions to the FAMLI division. Employers must post program notices and notify new hires of the FAMLI benefit program. Employers must also inform employees about the program upon learning of an employee's qualifying life event.

Claims. The FAMLI division is required to notify an employer of their employee's FAMLI leave claim within five business days after an eligible individual files a claim for benefits. The FAMLI division will set rules related to claim forms and the manner in which claims are filed; however, the bill makes several requirements related to claims, including that an employee prove eligibility, meet certain hourly thresholds of employment per year, disclose relevant medical records, and attest that his or her employer was notified in writing. The division may require additional attestations from employees. In certain circumstances, a family member may file a claim on behalf of a covered individual. An employer may pay FAMLI benefits directly to an eligible individual and seek reimbursement from the FAMLI division.

Employer penalties. The FAMLI division will, by rule, create a fine structure for employers who violate employer requirements in the bill. Fines are deposited into the FAMLI fund.

Private plans. With division approval, an employer may choose to provide benefits through a private plan that provides the same rights, protections, and benefits as those provided under the FAMLI program. The costs to an employee for a private plan must not exceed what a covered individual would pay in premiums into the FAMLI fund. The director will determine the division's costs arising out of the administration of private plans and each entity offering a private plan is required to reimburse the division for that amount. An employer that fails to operate the plan according to the requirements in the bill will be subject to penalties.

Enterprise and type 2 transfer designation. The FAMLI division is created as an enterprise which may issue revenue bonds and is limited to 10 percent of annual revenue from state and local governments. The division is also designated as a type 2 transfer, which means that it is directly under the control of the executive director of CDLE, including its statutory powers, duties, records, property, personnel, and functions of budgeting, purchasing, and planning.

Rulemaking, reporting, and other division responsibilities. The FAMLI division must adopt rules establishing the form and manner of filing a claim, setting premium amounts, and establishing a fine structure for employers. The division must follow federal tax withholding policies and may establish any other rules as necessary to establish the program. The division must report to the General Assembly by September 1, 2024, and each year thereafter, on program participation, including demographics, as well as premium rates, fund balances, and outreach efforts.

Complaints. The FAMLI division will investigate complaints and may resolve them through mediation. Claims must be brought within two years after the date of the last event constituting the alleged violation. The division must rule within 180 days. An aggrieved individual may take civil action after the administrative complaint process is exhausted. This process does not apply to a an employee of a local government that has elected coverage.

Federal and state income tax deduction. The bill requires the division to inform individuals filing claims about federal tax implications of benefits, IRS requirements, and that taxes can be deducted on the front end from benefit payments. Under the bill, FAMLI benefits are not subject to state income tax. The division is required to provide electronic data to the Department of Revenue regarding taxpayers who have been paid FAMLI benefits.

Background and Data

Federal Family and Medical Leave Act. The federal FMLA entitles eligible employees of covered employers to take up to 12 weeks per year of unpaid, job-protected leave for specified family and medical reasons, with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Employees may use sick time, vacation time, or other accrued leave time along with FMLA leave in order to continue being paid. All public employers are subject to FMLA requirements. Private employers must have at least 50 employees within 75 miles of a worksite to be subject to FMLA requirements.

Paid family leave in other states. California, Massachusetts, New Jersey, New York, Rhode Island, and Washington currently have paid family leave programs: California's began in 2002; Massachusetts' in 2018; New Jersey's in 2008; Rhode Island's in 2013; New York's in 2016; and Washington's in 2017. Some family leave programs operate in conjunction with the state's temporary disability insurance program. Premiums are paid by employees only in some states, and by both employees and employers in other states.

State Revenue

The bill is expected to increase state revenue to the FAMLI fund from bond revenue of $110 million and potentially gifts, grants, or donations to cover the expenditures beginning in FY 2020-21. The timing of revenue will depend on final budget estimates for the division and the timing of the issuance of the revenue bonds. The bill is also expected to increase state revenue from premiums by $531.7 million in FY 2023-23, $1,120.8 million in FY 2023-24, and $1,177.3 million in FY 2024-25. As the FAMLI division is created as a state enterprise, these revenue sources are not subject to TABOR.

Fee impact on employees and employers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are set in the bill for the first two years that premiums are collected. The rate is 0.64 percent of wages up to 80 percent of the Social Security Old-Age, Survivors, and Disability Insurance Tax which will be $124,080 for calendar year 2023. The FAMLI division will adjust fees according to solvency requirements specified in the bill beginning January 1, 2025. Table 4 shows the annual impact per employee for the employee and employer share of premiums. Table 5 below identifies the overall fee impact of this bill.

Table 4
FAMLI Premium Fee Impact on Individual Employees and Employers

Employee's Annual Wage	Employee Annual Premium Range			Employer Annual Premium Range		
up to $12,000			up to $46			up to $31
$12,001 to $20,000	$46	to	$76	$31	to	$52
$20,001 to $40,000	$76	to	$152	$52	to	$104
$40,001 to $60,000	$152	to	$228	$104	to	$156
$60,001 to $80,000	$228	to	$304	$156	to	$208
$80,001 to $100,000	$304	to	$380	$208	to	$260
$100,001 to 120,000	$380	to	$456	$260	to	$312
$120,001 to 124,080	$456	to	$472	$312	to	$323

Table 5
Total Revenue from Employees and Employers Under SB 19-188

Fiscal Year	Revenue Source	Total Premium Revenue
FY 2022-23 (half year)	FAMLI Premium from Employees	$325,741,785
	FAMLI Premium from Employers	$205,963,445
	FY 2022-23 Total	**$531,705,230**
FY 2023-24 (full year)	FAMLI Premium from Employees	$686,674,730
	FAMLI Premium from Employers	$434,177,927
	FY 2023-24 Total	**$1,120,852,657**
FY 2024-25 (full year)	FAMLI Premium from Employees	$721,278,299
	FAMLI Premium from Employers	$456,057,437
	FY 2024-25 Total	**$1,177,335,736**

State Expenditures

The bill will increase state expenditures by:

- $55,552 in FY 2019-20;
- $43.3 million in FY 2020-21;
- $3.1 million in FY 2021-22;
- $16.7 million in FY 2022-23;
- $456.7 million in FY 2023-24; and
- $986.9 million in FY 2024-25.

The fiscal note assumes that CDLE will use a General Fund loan from the State Treasurer's Office for FY 2020-21 to fund the establishment of the enterprise, promulgate rules, begin system development, and issue revenue bonds. Expenditures for the CDLE for the first three years (FY 2019-20 to FY 2021-22) are shown in Table 6 below; expenditures for CDLE and other agencies for years four to six (FY 2022-23 to FY 2024-25) are shown in the continuation of Table 6 on the following page. A detailed discussion of costs is provided after the table. The bill also increases workload for all state agencies, and specifically the Department of Personnel and Administration (DPA) and the Judicial Department. These impacts are also discussed below.

Table 6
Expenditures Under SB 19-188
*FY 2019-20 to FY 2021-22**

Cost Components	**1st Year FY 2019-20**	**2nd Year FY 2020-21**	**3rd Year FY 2021-22**
Department of Labor and Employment			
Personal Services	-	$1,295,963	$1,295,963
Operating Expenses and Capital Outlay	-	$38,715	$15,200
Information Technology Contractors	-	$994,931	$897,340
Premium and Benefit System Estimate	-	$40,000,000	
Legal Services	-	$150,264	$75,132
Actuarial and Statistical Contract Services	$50,000	$180,000	$180,000
Advisory Board Costs	$5,552	$5,552	$5,552
Market Outreach	-	$286,761	$286,761
Vehicle and Mileage	-	-	-
Leased Space	-	-	-
Centrally Appropriated Costs	-	$367,487	$367,487
FTE – Personal Services	-	16.0 FTE	16.0 FTE
FTE – Legal Services	-	0.8 FTE	0.4 FTE
Total	**$55,552**	**$43,319,673**	**$3,123,435**
Total FTE	**-**	**16.8 FTE**	**16.4 FTE**

** The next three fiscal years, FY 2022-23 to FY 2024-25, are shown on the following page.*

Table 6 (cont.)
Expenditures Under SB 19-188
FY 2022-23 to FY 2024-25

Cost Components	4th Year FY 2022-23	5th Year FY 2023-24	6th Year FY 2024-25
FAMLI Benefit Payments		*(half year)*	*(full year)*
Estimated Leave Benefits Paid	-	$417,397,609	$947,115,099
FAMLI Benefit (Subtotal)	**-**	**$417,397,609**	**$947,115,099**
Department of Labor and Employment			
Personal Services	$3,646,250	$11,876,593	$11,876,593
Operating Expenses and Capital Outlay	$269,585	$871,032	$193,800
Information Technology Contractors	$897,340	$897,340	$897,340
Premium and Benefit System Estimate	-	-	-
Legal Services	$20,726	$20,726	$20,726
Actuarial and Statistical Contract Services	$180,000	$180,000	$180,000
Advisory Board Costs	$5,552	$5,552	$5,552
Market Outreach	$286,761	-	-
Vehicle and Mileage	-	$108,000	$108,000
Leased Space	$540,000	$1,365,000	$1,365,000
Centrally Appropriated Costs	$873,258	$2,900,357	$2,900,357
FTE – Personal Services	61.0 FTE	205.0 FTE	205.0 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE	0.1 FTE
CDLE (Subtotal)	**$6,719,472**	**$18,224,600**	**$17,547,368**
Department of Revenue			
Personal Services	-	-	$117,340
Operating Expenses and Capital Outlay Costs	-	-	$16,959
Computer Programming	-	-	$7,165
Centrally Appropriated Costs	-	-	$31,743
FTE – Personal Services	-	-	2.4 FTE
DOR (Subtotal)	**-**	**-**	**$173,207**
All State Agencies			
Premium Payments – General Fund	$5,491,130	$11,575,489	$12,158,812
Premium Payments – Cash Funds	$4,492,743	$9,470,854	$9,948,119
State Agencies (Subtotal)	**$9,983,873**	**$21,046,343**	**$22,106,931**
Total	**$16,703,345**	**$456,668,552**	**$986,942,605**
Total FTE	**61.1 FTE**	**205.1 FTE**	**207.5 FTE**

Executive Director's Office — CDLE. In FY 2019-20, staff under the Executive Director's Office will issue an RFI to determine interest in a third party administering the FAMLI program and will contract for an actuarial study. The fiscal note includes $50,000 for the actuarial study, while the RFI can be accomplished within existing resources. Staff will also convene and facilitate the FAMLI Advisory Board. The fiscal note includes $5,552 per year for advisory board expenses. Staff will prepare a report for the General Assembly, Governor, and Advisory Board on recommendations from the RFI and actuarial study. The actions that follow will depend on the CDLE executive director's decision on how to implement the FAMLI program. This analysis assumes that CDLE will implement the program. Should a third party be selected to administer the program, the expenditures for the FAMLI division will differ from those presented in this fiscal note.

FAMLI benefits. Beginning January 1, 2024, this bill will increase expenditures for FAMLI benefit payments by $417.4 million in FY 2023-24 (half-year impact) and $947.1 million in FY 2024-25 (full-year impact). The maximum individual weekly benefit is shown in Table 3 above. The section below provides additional information and assumptions for utilization rate and leave duration on which these total benefit costs are based.

Utilization rate and leave duration assumptions. The utilization rate is calculated as the percent of employees filing a FAMLI claim and receiving benefits for 12 weeks, the maximum amount of leave allowed under the program. In real world implementation of the program, employees will take leave for various amounts of time up to the maximum amount allowed and the actual percent of workers utilizing leave will differ compared to the assumption used in the fiscal note. The 3.0 percent utilization assumption is intended to reflect the likely overall utilization of the FAMLI program, as informed by other states with paid leave and short term disability programs, current usage of unpaid leave under the federal Family and Medical Leave Act, and other data sources. The fiscal note also assumes that utilization will grow as the program becomes more widely known, but that it will also fluctuate.

Division of Family and Medical Leave Insurance — CDLE. The newly created FAMLI division will work on bonding, general programmatic structure, and provide input to the OIT in years two and three (FY 2020-21 and FY 2021-22); ramp up staff during year four (FY 2022-23); bring on the remaining staff in year five (FY 2023-24) when employee benefit payments begin; and continue this staffing level in future years. Total staffing is estimated at 40 percent of the staff required to administer the state's Unemployment Insurance program. Staffing will occur in phases starting in year two as the program begins operating and ramp up to full staffing in year five. The total amount of staff for each implementation phase is as follows:

- *Second and third years*. 16 FTE in FY 2020-21 and FY 2021-22 for a division director, three program managers, four analysts, a marketing specialist, a contract administrator, a project administrator, a human resources specialist, plus four business operational staff will develop rules, policies, procedures and overarching program design for three functional areas (benefits, premiums, and appeals). This work will include stakeholder meetings, research, and development of a request for proposal for the premium and benefit system.

- *Fourth year.* 61 FTE in FY 2022-23 for initial eligibility and claims clerks; appeals clerks and research analysts; employer payment clerks; outreach support staff; auditors; administrative assistants; and file clerks.

- *Fifth year and beyond.* 205 FTE in FY 2022-23, and future years, for full staff, including a hearings division.

Other FAMLI division costs. Other costs to implement the FAMLI division are as follows:

- *Statistical and actuarial expertise.* The division will contract for statistical and actuarial studies annually beginning in FY 2020-21 to assist in estimating revenues for the bond and in promulgating rules on premium rates, resulting in an ongoing cost of $180,000 per year thereafter.

- *Outreach and mailings.* In FY 2020-21, FY 2021-22, and FY 2022-23, a marketing and outreach specialist will conduct outreach including mailings to all employers at a cost of $286,761 per mailing.

- *CDLE leased space.* Leased space is required to house FAMLI division employees, at the rate of $21.50 per square foot in FY 2020-21, to $26.00 per square foot in FY 2023-24 for 250 square feet per employee. Per the fiscal note common policy, leased space is included in centrally appropriated costs until staffing exceeds 20 new FTE.

- *Bonding.* In order to receive bond revenue in FY 2020-21, the CDLE will work with the State Treasurer, a financial advisor, bond counsel, underwriting counsel, and credit rating services, all of which will be paid from the bond proceeds. The revenue bonds will also include enough revenue to repay the General Fund loan with interest, and up to three bond interest payments to meet bond obligations until premium collection starts on January 1, 2023, and to administer the program including technology costs. The fiscal note assumes $110 million in bond issuance.

- *Legal services.* In FY 2020-21, the CDLE will require 1,450 hours of legal services from the Attorney General's Office to establish an enterprise and promulgate rules at a rate of $103.63 per hour for a total cost of $150,264. The CDLE will require 725 hours of legal services at a cost of $75,132 in FY 2021-22. Legal services hours in subsequent years will be included in common policy but are shown here at 200 hours per year and 0.1 FTE. The Attorney General's Office requires 0.8 FTE in FY 2020-21 and 0.4 FTE in FY 2021-22 to conduct this work.

- *Information technology contractors.* The FAMLI premium and benefit system will be considered a major information technology project and will follow those procurement guidelines. Based on information from an RFI issued by CDLE recently, the cost to have a vendor build a system range between $35 to $45 million, plus the cost of ongoing maintenance and software licensing. Table 7 shows $40 million in FY 2020-21 for informational purposes, but the actual costs will be determined through the procurement process, including review by the Joint Technology Committee. Funding for the system will come from revenue bonds.

  Reappropriated funding from CDLE will be used by OIT to hire contractors who will work with both departments, contract and procurement teams, and division leadership to shape the procurement that is needed to create the FAMLI premium and benefit system. Beginning in FY 2020-21, contract staff will include a project manager, business systems analyst, information security architect, and senior software architect data specialist. Costs for contractors include capital and operating expenses.

- *Vehicle lease.* The FAMLI division will begin leasing vehicles in FY 2023-24. Funds for the vehicles will be reappropriated to the DPA.

Department of Revenue. Beginning in FY 2024-25, DOR's Taxation and Compliance Division will require 2.0 FTE for tax compliance and auditing and 1.1 FTE in its Taxpayer Services Division to handle increased call center volume. Computer programming is also required at the rate of $250 per hour for 8.5 hours to update the GenTax system. Finally, imaging costs estimated at $1,200 will be reappropriated to the DPA to update one tax form change. CDLE will provide DOR with electronic 1099-G forms.

Department of Personnel and Administration. The DPA will set up the new deduction for the state agencies it serves. It will also perform outreach to the state personnel system and update rules, technical guidance, and existing documentation to include information about the FAMLI benefit program. These workload increases can be accomplished within existing appropriations.

Short-term disability benefits. The bill may result in a reduction in the amount of short-term disability benefits paid to employees, which may result in a cost savings through a reduction of the short-term disability premium. If this occurs, this adjustment will be addressed through the total compensation analysis included in the annual budget process.

Judicial Department. Beginning in FY 2023-24, trial courts may see a minimal increase in workload from discrimination cases against employers for violating the employment protection provisions of the bill. To the extent that these workload increases require additional appropriations, these will be requested through the annual budget process.

All state agencies. This bill is expected to increase state expenditures for premium contributions by $10.0 million in FY 2022-23, and $21.0 million in FY 2023-24, and $22.1 million in FY 2024-25 for all state agencies including institutions of higher education. These expenditures are estimated to be 55 percent General Fund and 45 percent cash funds. These costs, including the General Fund share, are shown in Table 6. All state agencies will have an increase in workload to perform employee outreach and to track and administer time, leave, and claims. Tracking of the FMLA, short-term disability, workers' compensation, and Public Employees' Retirement Association can be administratively complex.

Increased utilization of leave. Because the bill allows employees who have worked for at least 680 hours during their qualifying year to receive benefits and expands the circumstances for which an employee can take leave, the utilization of leave by state employees is expected to increase. The 680 hour requirement is a lower threshold than the state's current eligibility requirements that require permanent state employees to perform one year of service before utilizing family and medical leave, and temporary state employees to have worked for at least 1250 hours in the qualifying year. This may have a significant fiscal and operational impact to departments that hire temporary employees, especially in round-the-clock departments such as the Departments of Corrections, Human Services, and Public Safety. To the extent additional resources are required related to these two issues, these will be requested during the annual budget process beginning in FY 2024-25.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be $367,487 in FY 2020-21 and FY 2021-22, $873,258 in FY 2022-23, $2,900,357 in FY 2023-24, and $2,932,100 in FY 2024-25. Because the majority of the costs of the bill will be funded by the FAMLI fund, which is an enterprise, CDLE's centrally appropriated costs may be treated differently.

Local Government, School District, and Statutory Public Entity Impact

Like the state, local governments that choose to participate in the FAMLI program, school districts, and statutory public entities will be required to pay the employer share of premiums, implement payroll deductions for employees, and coordinate sick leave, FMLA, short-term disability, and PERA benefits when an employee applies for FAMLI leave.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2019-20, the bill requires a General Fund appropriation of $55,552 to the Department of Labor and Employment.

State and Local Government Contacts

All State and Local Agencies