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Final Fiscal Note

Drafting Number: LLS 22-0679
Prime Sponsors: Rep. Gray; Caraveo
Sen. Winter

Date: July 11, 2022
Bill Status: Signed into Law
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Bill Topic: **FAMILY & MEDICAL LEAVE INSURANCE FUND**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill transfers \$57.0 million from the Revenue Loss Restoration Cash Fund to the Family and Medical Leave Insurance Fund to prepay state employer premiums to the Department of Labor and Employment. It creates a one-time state transfer in the current FY 2021-22, will reduce centrally appropriated costs for agencies by the same amount over approximately four fiscal years, and will increase state revenue from interest earnings.

Appropriation Summary: The bill includes reductions in appropriations from agency Paid Family Medical Leave Initiative lines totaling \$4.9 million in FY 2022-23. The Family and Medical Leave Insurance Fund is continuously appropriated to the Department of Labor and Employment.

Fiscal Note Status: The final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 22-1133

		Current Year FY 2021-22	Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	FAMLI Fund	-	\$0.5 million	\$0.9 million
	Total Revenue	-	\$0.5 million	\$0.9 million
Expenditures	Centrally Appropriated	-	(\$4.9 million)	(\$9.8 million)
	Total Expenditures	-	(\$4.9 million)	(\$9.8 million)
Transfers	Revenue Loss Restoration Cash Fund ¹	(\$57.0 million)	-	-
	FAMLI Fund	\$57.0 million	-	-
	Net Transfer	\$0	-	-
Other Budget		-	-	-

¹ Money in the Revenue Loss Restoration Cash Fund comes from federal ARPA funds.

Summary of Legislation

The bill transfers \$57.0 million from the Revenue Loss Restoration Cash Fund to the Family and Medical Leave Insurance Fund for advance payments into state employer accounts under the Paid Family and Medical Leave Insurance Act administered by the Division of Family and Medical Leave Insurance in the Colorado Department of Labor and Employment (CDLE). The credit for the advance payments will include interest earnings.

When those accounts have a \$0 balance, the state will begin paying quarterly premiums. The division must report the manner in which it determines the state will receive credit for the advance payment and interest earnings to the Department of Personnel and Administration, the Office of State Planning and Budgeting, and the Joint Budget Committee by December 31, 2022. The bill specifies that advance payments of premiums do not constitute indebtedness or a state liability and are exempt from the state's fiscal rules.

Background

The Family and Medical Leave Insurance Program, administered by the CDLE, was approved by voters in November 2020 through citizen-initiated Proposition 118. The program was created as an enterprise and its revenue does not count toward the state's revenue limit under TABOR. It requires employers and employees in Colorado to pay a payroll premium of 0.90 percent, with a minimum of half paid by the employer, beginning January 1, 2023, in order to finance paid family and medical leave insurance benefits. Premiums are capped at the Social Security Wage Base. Beginning January 1, 2024, eligible employees may receive up to 12 weeks of paid family and medical leave insurance benefits. Apart from a \$1.5 million transfer from the General Fund to the Family and Medical Leave Insurance Fund made through Senate 21-251, the program does not expect to receive funding until January 1, 2023, when premiums collections begin. If House Bill 22-1305 is adopted, the program will also receive up to \$57.5 million General Fund to backfill a 0.90 percent premium reduction for all employers from January 1, 2023, through June 30, 2023, through a transfer made on July 1, 2023. For more information about the program, see: famli.colorado.gov.

State Revenue

The bill will increase state revenue from interest earnings by about \$0.5 million in FY 2022-23 (half-year impact) and \$0.9 million in FY 2023-24. This revenue is received in the Family and Medical Leave Insurance Fund and credited toward the state's prepayments of employee family and medical leave premiums. Overall, the prepayment of \$57 million is expected to generate about \$3.4 million over a six-year period while it is held in the fund and drawn down over time for premium payments. It is assumed that interest earnings in this fund are not subject to the state's TABOR revenue limit.

These estimates assume a 2.0 percent annual interest rate, compounded monthly, and quarterly withdrawals from the prepayment amount for premium payments until the balance is exhausted. Note that this fiscal note does not account for a corresponding reduction in interest earnings that may be received by the Revenue Loss Restoration Cash Fund, as it is unknown if the \$57 million would otherwise be spent or held in that fund for some period of time.

State Transfers

In the current FY 2021-22, the bill transfers \$57.0 million from the Revenue Loss Restoration Cash Fund to the Family and Medical Leave Insurance Fund.

State Expenditures

The advance payment of the state's share of employer premiums will result in a reduction in state expenditures of \$4,908,466 in FY 2022-23 (half-year impact) and a reduction of \$9,816,932 in FY 2023-24, with ongoing reductions until the \$57.0 million prepayment, plus interest earnings, is drawn down. Based on the assumed interest earnings and holding premium payments constant, the prepayment will fund about six years of premium payments. As discussed in the Background section, these amounts represent the employer contribution of 0.45 percent of all appropriated positions within the state, which are appropriated through the "Paid Family Medical Leave Initiative" line within each agency budget.

Other Budget Impacts

The Family and Medical Leave Insurance Program is a state government enterprise, with revenue exempt from TABOR. The fiscal note assumes that advance premium payments do not constitute grant funding for purposes of determining the program's enterprise status.

Effective Date

The bill was signed into law by the Governor and took effect on May 17, 2022.

State Appropriations

The bill includes a total reduction of \$4,908,466 in the centrally appropriated Paid Family Medical Leave Initiative line items.

State and Local Government Contacts

Information Technology
Personnel and Administration

Labor and Employment
Treasury