

# Vermont Legislative Joint Fiscal Office

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## *FISCAL NOTE*

Date: January 22, 2020  
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### **H.107 An act relating to paid family and medical leave – As Passed by The Committee of Conference – Draft 2.2 *Updated using 2020 dollars***

<https://legislature.vermont.gov/Documents/2020/WorkGroups/Senate%20Economic%20Development/Committee%20of%20Conference/H.107/H.107~Damien%20Leonard~Report%20of%20Committee%20of%20Conference%20v2.2~1-15-2020.pdf>

#### Bill Summary

This bill establishes a paid family and medical leave program. Up to 12 weeks of parental or bonding leave and up to 8 weeks of family care leave are mandatory with a contribution rate of 0.20% of payroll. Own medical leave of up to 6 weeks is voluntary with a contribution rate of 0.38% of payroll.

#### Family and Medical Leave Insurance (FMLI) Program: Benefit Design

##### 1. Leave duration

- Up to 12 weeks of parental/bonding leave; no waiting
- Up to 8 weeks of family care leave
- Voluntary medical leave of up to 6 weeks in a 12-month period; an employee may opt in for a minimum period of 3 years and annually thereafter
- Family care or medical leave benefits follow a waiting period of 5 calendar days
- Maximum leave for all types of leave in a 12-month period is 12 weeks

##### 2. Benefit amount

- 90 percent of an employee's average weekly wage up to 55 percent of the Vermont Average Weekly Wage (currently \$13.26 per hour, \$530.42 per week, or \$27,582 per year) and 55 percent of an employee's average weekly wage in excess of that amount
- Maximum weekly benefit amount is the Vermont Average Weekly Wage (\$964 per week; a worker earning at or above \$73,580 receives the maximum benefit)

#### Funding

##### 1. Payroll contributions

- Based on wages up to the Social Security taxable maximum (\$137,700 in 2020)
  - For mandatory benefits: 0.20 percent of wages begin January 1, 2021 if the Commissioner of Financial Regulation selects a private insurance carrier on or before September 1, 2020; if after September 1, contributions begin April 1, 2021; if the Commissioner is unable to secure a private insurance carrier, contributions begin July 1, 2021
  - For voluntary benefits: 0.38% of wages begin January 1 or April 1, 2021

- The employer has the option of paying some or all of the contributions due or may deduct the full amount from the employee's wages; the share paid by the employer is subject to negotiation when employees are subject to collective bargaining.

## 2. Mechanics

- The employer remits the total payroll contributions quarterly to the Department of Taxes, with an option for the program administrator to collect contributions directly
- The legislature may change the contribution rate annually

## Administration

- The Commissioner of Financial Regulation (DFR), in consultation with the Commissioners of Human Resources, Labor, and Tax, will issue a Request for Proposals to select an insurance carrier to run a program that meets the goals of the legislation at lower cost than a State-run program; if no lower-cost carrier is found, the State will administer the program
- The Commissioner of Financial Regulation will adopt rules for approval of an employer's alternative insurance or benefits plan that allows employer opt-out
- The Commissioner of Labor will adopt rules regarding eligibility and the appeals process, carry out education efforts, and handle appeals that come to the State
- The Commissioner of Taxes will adopt rules regarding collecting the FMLI payroll contributions from employers on a quarterly basis and will remit them to the FMLI Special Fund
  - Insurance premiums are paid to the insurance carrier from the Special Fund
  - The Special Fund earns and retains interest on any balances

## State Budget Impacts

### 1. Expenditures in FY2021

- The Department of Taxes: \$1.022 million to develop software for collecting contributions
- The Department of Labor: \$222,700 for rule-making and administrative tasks

### 2. For State Employees beginning FY2021

- If State employees are covered by the Governor's plan for paid family leave, they would not participate in the statewide FMLI program for the duration of the FY2021-FY2022 contract.
- If the Governor's plan is not implemented, the maximum all-fund appropriation needed if, for example, the employer pays 0.1 percent of wages (half the contribution) is approximately \$155,000 in FY2021 and \$642,000 in FY2022; about 40% of that cost falls on the General Fund
- In addition, there may be costs to replace State workers who become eligible for longer leaves or additional leaves, and costs associated with leaves for short-duration workers who become eligible for longer leaves

### 3. Other Indirect Impacts

- Any employer contributions for public school employees will affect the Education Fund; employer contributions for contract workers such as home health and hospice workers could indirectly affect the State Budget as well

### Modeling assumptions

- Assumes 100% participation in mandatory program, 40% in voluntary program
- Employers may opt out if they provide paid family leave benefits that are equivalent or better than the FMLI program
- Lower participation rates would shrink both revenues and benefits
- Assume contributions begin April 1, 2021; benefits begin October 1, 2021

### Effective dates

- Effective on passage; Rule-making may begin on passage
- Payroll contributions begin January 1, 2021 if the Commissioner of Financial Regulation selects a private insurance carrier on or before September 1, 2020; if after September 1, contributions begin April 1, 2021; if the Commissioner is unable to secure a private insurance carrier, contributions begin July 1, 2021
- Benefits begin July 1, 2021 if contributions begin January 1, 2021; benefits begin October 1, 2021 if contributions begin April 1, 2021; if no private insurance carrier is secured, benefits begin July 1, 2022

### Sources

Some of the results here are based on the IMPAQ study completed in 2016 for the Vermont Commission on Women, “Vermont Paid Family and Medical Leave Feasibility Study: Final Report,” December 15, 2016; available at

[https://women.vermont.gov/sites/women/files/pdf/VT%20PFML%20Study\\_Final%20Report\\_FINAL\\_V3.pdf](https://women.vermont.gov/sites/women/files/pdf/VT%20PFML%20Study_Final%20Report_FINAL_V3.pdf)

Estimates based on the Report of the Committee of Conference as of January 2020; 2020 \$\$

JFO/jm; 16 Jan 2020					
<b>PRELIMINARY RESULTS -- H.107 Family and Medical Leave Insurance, Committee of Conference, Parental and Family Care Leave</b>					
Start 0.20% contribution in Apr 2021 assuming selection of private insurance carrier occurs after Sept. 1, 2020					
<b>Part A. Fiscal Year Cash Flow</b>					
Start 0.20% in Apr 2021					
	FY2021	FY2022	FY2023	FY2024	FY2025
House compromise; 1/12 Premium in Advance; Soc Sec max wgs; Bond/fam: 12 per newborn/8, 90/55, max ben AWW; low	Contrib's begin 4/1	Ben's begin 10/1	Full operations	Full operations	Full operations
1 Total Benefits	\$0	\$19,978,102	\$27,170,219	\$27,713,623	\$28,267,896
2 Administrative fees, Insurance carrier	\$0	\$1,498,358	\$2,037,766	\$2,078,522	\$2,120,092
3 Advance 1-month premium to Insur Carrier in Year 2	\$0	\$2,386,273			
4 Administrative VDOL	\$222,694	\$832,246	\$851,388	\$870,970	\$891,002
5 Administrative Tax Dept.	\$1,022,000	\$673,818	\$689,316	\$705,170	\$721,389
6 <b>Total Cost</b>	\$1,244,694	\$25,368,798	\$30,748,689	\$31,368,285	\$32,000,379
7 Payroll contribution rate (Total Cost/(Contribns + Int))	0.200%	0.200%	0.200%	0.200%	0.200%
8 Revenue from payroll contributions	\$0	\$29,632,176	\$30,343,349	\$31,071,589	\$31,817,307
9 Interest on excess funds (2.5% on excess funds)	-\$2,595	\$66,323	\$71,531	\$64,301	\$59,692
10 <b>Total Revenue</b>	-\$2,595	\$29,698,500	\$30,414,879	\$31,135,890	\$31,876,999
11 <b>Assets/Liabs in Special Fund at end of year</b>	-\$1,247,289	\$3,082,413	\$2,748,603	\$2,516,208	\$2,392,828
Monthly range of Assets/Liabs in Special Fund					
12 Largest monthly liabilities	-\$1,247,289	-\$1,375,393	\$231,314	-\$79,924	-\$316,660
13 Smallest monthly liabilities/positive assets	-\$414,898	\$5,773,294	\$5,416,857	\$5,157,122	\$5,049,008
14 Month of Occurrence (Largest, Smallest)	(Jun, Apr)	(July, Aug)	(Apr, Aug)	(Apr, Aug)	(Oct, May)
For Reference:	FY2021	FY2022	FY2023	FY2024	FY2025
Wages up to Social Security taxable maximum	\$14,554,114,182	\$14,903,412,923	\$15,261,094,833	\$15,627,361,109	\$16,002,417,776
Annual Benefits, Bond/fam8 only, 1-wk wait FL	\$26,115,166	\$26,637,469	\$27,170,219	\$27,713,623	\$28,267,896

JFO/jm; 16 Jan 2020					
<b>PRELIMINARY RESULTS -- H.107 Family and Medical Leave Insurance, Committee of Conference, Voluntary Medical Leave</b>					
Assume 40% participation; Start 0.38% contribution in Apr 2021 assuming selection of private insurance carrier occurs after Sept. 1, 2020					
<b>Part A. Fiscal Year Cash Flow</b>					
Start 0.38% in Apr 2021					
	FY2021	FY2022	FY2023	FY2024	FY2025
Vol SL 6 wks; 1/12 Premium in Advance; Soc Sec max wgs; 90/55, max ben AWW; low end admin costs	Contrib's begin 4/1	Ben's begin 10/1	Full operations	Full operations	Full operations
1 Total Benefits	\$0	\$15,398,142	\$20,941,473	\$21,360,302	\$21,787,508
2 Administrative fees, Insurance carrier	\$0	\$1,231,851	\$1,675,318	\$1,708,824	\$1,743,001
3 Advance 1-month premium to Insur Carrier in Year 2	\$0	\$1,847,777			
4 Administrative VDOL	\$0	\$208,062	\$180,286	\$184,433	\$188,675
5 Administrative Tax Dept.	\$102,200	\$102,200	\$104,551	\$106,955	\$109,415
6 <b>Total Cost</b>	\$102,200	\$18,788,032	\$22,901,627	\$23,360,514	\$23,828,599
7 Payroll contribution rate (Total Cost/(Contribns + Int))	0.38%	0.38%	0.38%	0.38%	0.38%
8 Revenue from payroll contributions	\$0	\$22,520,454	\$23,060,945	\$23,614,408	\$24,181,153
9 Interest on excess funds (2.5% on excess funds)	-\$213	\$78,190	\$94,289	\$101,762	\$111,862
10 <b>Total Revenue</b>	-\$213	\$22,598,644	\$23,155,234	\$23,716,169	\$24,293,015
11 <b>Assets/Liabs in Special Fund at end of year</b>	-\$102,413	\$3,708,199	\$3,961,805	\$4,317,460	\$4,781,877
Monthly range of Assets/Liabs in Special Fund					
12 Largest monthly liabilities	-\$102,413	-\$128,482	\$1,768,351	\$2,007,123	\$2,348,996
13 Smallest monthly liabilities/positive assets	-\$34,067	\$5,570,226	\$5,858,070	\$6,251,147	\$6,753,523
14 Month of Occurrence (Largest, Smallest)	(Jun, Apr)	(July, May)	(Oct, May)	(Oct, May)	(Oct, May)
For Reference:	FY2021	FY2022	FY2023	FY2024	FY2025
40% of Wages up to Social Security taxable maximum	\$5,821,645,673	\$5,961,365,169	\$6,104,437,933	\$6,250,944,444	\$6,400,967,110
Annual Benefits in Vol SL 6 wks, 1-wk wait	\$20,128,290	\$20,530,856	\$20,941,473	\$21,360,302	\$21,787,508