HB 1299

Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1299 (Delegate A. Miller, *et al.*)
Ways and Means

Income Tax - Rate and Subtraction Modification - Parental Leave for Employees

This bill creates a subtraction modification against the State income tax for employers that provide certain paid parental leave. Employers may subtract the amount of qualified wages paid to the employee during the parental leave period. The bill also imposes a State income tax equal to 0.25% of the total net taxable income of an individual who receives parental leave and whose employer claims the subtraction modification for the wages paid during the parental leave.

The bill takes effect July 1, 2014, and applies to tax year 2014 and beyond.

Fiscal Summary

State Effect: Net general fund revenues increase by $1.3 million in FY 2015, which reflects an increase in revenues from the additional State income tax minus subtraction modifications claimed against the personal and corporate income tax. Transportation Trust Fund (TTF) revenues decrease by $0.5 million in FY 2015, and Higher Education Investment Fund (HEIF) revenues decrease by $0.2 million. General fund expenditures increase by $0.1 million in FY 2015 due to implementation costs at the Comptroller's Office.

($ in millions)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Revenue	$1.3	$1.3	$1.2	$1.1	$1.0
SF Revenue	($0.7)	($0.7)	($0.7)	($0.8)	($0.8)
GF Expenditure	$0.1	-	-	-	-
Net Effect	$0.5	$0.6	$0.5	$0.4	$0.2

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local income tax revenues decrease by $1.2 million in FY 2015 and by $1.5 million in FY 2019. Local highway user revenues will decrease by $49,700 in FY 2015 and by $54,600 in FY 2019. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill creates a subtraction modification against the State income tax for employers that provide certain paid parental leave. The amount of the subtraction modification is equal to the amount of wages paid to an eligible employee during a period of parental leave. The bill requires that employers submit specified documentation when claiming the subtraction modification.

An eligible employee is an employee who requested that an employer provide parental leave and who, as of the date of the requested leave, has been employed for at least a 12-month period. Parental leave is leave taken by an eligible employee for a period of at least eight weeks for (1) the birth of a child of the employee for the purpose of taking care of the child; or (2) placement of a child with the employee for adoption or foster care.

The bill imposes an additional State income tax on any individual who receives paid parental leave and whose employer claims the subtraction modification for parental leave paid. These individuals must pay an additional State income tax equal to 0.25% of the individual's total Maryland taxable income.

Current Law: None applicable.

Background:

Family and Medical Leave Act

The federal Family and Medical Leave Act (FMLA) requires covered employers to provide eligible employees with up to 12 work weeks of unpaid leave during any 12-month period under the following conditions:

- the birth and care of an employee's newborn child;
- the adoption or placement of a child with an employee for foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition;

- medical leave when the employee is unable to work due to a serious health condition; or
- any qualifying circumstance arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty."

Generally, an FMLA-covered employer is a private-sector employer that employs 50 or more employees. Public agencies and public or private elementary or secondary schools are considered to be covered employers regardless of the number of individuals they employ.

An eligible employee is an individual employed by a covered employer who has been employed for at least 12 months; however, these may be nonconsecutive months. Among other criteria, the individual must have been employed for at least 1,250 hours of service during the 12-month period and works at a location where the employer has at least 50 employees within 75 miles.

The Wage and Hour Division of the U.S. Department of Labor administers and enforces FMLA and investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. An employee may also bring a private civil action against an employer for violations. Generally, an allegation must be raised within two years from the date of violation.

Maryland Flexible Leave Act

Chapter 644 of 2008 requires a private-sector employer that provides paid leave to its employees to allow an employee to use earned paid leave to care for immediate family members, including a child, spouse, or parent with an illness. An employer is prohibited from taking action against an employee who exercises the rights granted or against an employee who files a complaint, testifies against, or assists in an action brought against the employer for a violation of Chapter 644. If the commissioner determines that provisions of Chapter 644 have been violated, the commissioner must try to resolve the issue informally by mediation or ask the Attorney General to bring an action on behalf of the employee.

An employer is considered a person that employs 15 or more individuals and is engaged in a business, industry, profession, trade, or other enterprise in the State, including a person who acts directly or indirectly in the interest of another employer. State and local governments are not included.

Employees who earn more than one type of paid leave from their employers may elect the type and amount of paid leave to be used in caring for their immediate family members.

Maryland Adoption Leave

Maryland statute requires that an employer that provides paid leave to an employee following the birth of an employee's child must provide the same benefit to an employee following an adoption. For the purposes of providing adoption leave benefits, Maryland statute defines "employer" as a person who is engaged in a business, industry, profession, trade, or other enterprise in the State. Employer includes a unit of State or local government, except those agencies that employ individuals subject to the State Personnel Management System leave policy. If the commissioner determines that adoption leave provisions have been violated, the commissioner must try to resolve the issue informally by mediation or ask the Attorney General to bring an action on behalf of the employee.

State Revenues: The bill creates a subtraction modification against the State income tax for the amount of qualified parental leave paid by an employer and imposes an additional State income tax of 0.25% on the total net taxable income of an employee who receives qualifying paid parental leave and whose employer claims the subtraction modification. As a result, general fund revenues increase by $1.3 million in fiscal 2015. TTF revenues decrease by $0.5 million and HEIF revenues decrease by $0.2 million in fiscal 2015. **Exhibit 1** shows the estimated State and local revenue impacts resulting from the bill.

Exhibit 1
State and Local Revenue Impacts
Fiscal 2015-2019

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Subtraction Modification	($4,988,800)	($5,187,700)	($5,497,800)	($5,853,800)	($6,212,600)
0.25% Tax Rate	5,625,100	5,802,100	6,008,800	6,226,600	6,446,400
Net Effect	**$636,300**	**$614,400**	**$511,000**	**$372,800**	**$233,800**
GF	$1,342,000	$1,348,200	$1,221,300	$1,129,100	$1,036,500
HEIF	(187,800)	(195,300)	(207,000)	(220,400)	(233,900)
TTF	(517,900)	(538,500)	(503,400)	(536,000)	(568,800)
MDOT	*(468,100)*	*(486,800)*	*(455,100)*	*(484,500)*	*(514,200)*
LHUR	*(49,700)*	*(51,700)*	*(48,300)*	*(51,500)*	*(54,600)*
Local Income Tax	($1,200,600)	($1,248,400)	($1,323,100)	($1,408,700)	($1,495,100)

This estimate is based on the following facts and assumptions:

- According to the National Compensation Survey, 12% of all workers in the United States were eligible for paid parental leave.
- According to the Center for Economic and Policy Research, about 0.8% of all workers age 16 to 44 were on parental leave in any given week in the United States during calendar 2012.
- Workers age 16 to 44 comprise an estimated 84% of the workforce.
- Total private employment in Maryland was an estimated 2.1 million in 2013.
- The average private weekly wage in Maryland in 2013 was an estimated $1,053.
- 50% of companies that pay parental leave meet the requirements of the bill; of the companies that qualify, an average of eight weeks of parental leave is paid.
- In tax year 2012, 2.1 million taxable returns reported a total of $151.7 billion in Maryland taxable income.

State Expenditures: The Comptroller's Office reports that it would incur a one-time expenditure increase of $112,000 in fiscal 2015 to implement the income tax changes. This includes data processing changes to the SMART income tax return processing and imaging systems, and system testing. The Comptroller's Office may also incur additional ongoing expenses due to data verification requirements.

Local Revenues: Local income tax revenues decrease by about 3% of the total net State subtraction modification claimed. Local income tax revenues will decrease by $1.2 million in fiscal 2015 and by $1.5 million in fiscal 2019, as shown in Exhibit 1. In addition, local highway user revenues will decrease by $49,700 in fiscal 2015 and by $54,600 in fiscal 2019.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): U.S. Bureau of Labor Statistics, Center for Economic and Policy Research, Comptroller's Office, Moodys.com, Department of Legislative Services

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