TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

SB 276 - HB 324

March 13, 2023

SUMMARY OF BILL AS AMENDED (005569): Grants state employees paid leave for a period of 12 workweeks for the birth of a child or the placement of a child with the employee for adoption. An employee is limited to 12 workweeks during one 12-month period and must be used within a year of the qualifying birth or adoption. Applies retroactively to any employee who did not use all of their entitled Family and Medical Leave Act (FMLA) leave resulting from the birth or adoption of a child.

Revises the accrual of annual and sick leave for state employees by granting the full amount of annual and sick leave an employee will earn throughout the following 12-month period to the employee on his or her service anniversary date.

Makes various changes to the authority of the state employee, local education, and local government health insurance committees to establish fully funded fixed benefit and partially funded voluntary benefit plans for employees and retirees of each plan.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures - $22,311,400/FY23-24
$34,483,600/FY24-25 and Subsequent Years

Increase Federal Expenditures – $1,872,100/FY23-24
$3,744,200/FY24-25 and Subsequent Years

Other Fiscal Impact – The state's additional fiscal liability is estimated to be $25,330,400 for accumulated leave resulting from the proposed legislation but does not result in a direct annual budgetary impact. Currently, the agencies included within the proposed legislation realized total payroll savings of $385,310,885 in FY21-22.

The Governor's proposed FY23-24 budget includes $27,433,000 in recurring funds for this legislation.

Assumptions for the bill as amended:

Twelve weeks paid parental FMLA leave for state employees:

- The proposed legislation will provide up to 12 paid workweeks within a 12-month period for state employees for the birth or adoption of a child. The leave must qualify under FMLA and employees will not have to use their sick or annual leave.
- According to the Department of Human Resources (DHR), there are 39,602 full-time employees (FTEs).
- According to U.S. Census data, it is estimated that approximately 32 percent of government employees are between the ages of 20 and 44; therefore, it is assumed the overall population this will apply to is 12,673 full time state employees (39,602 x 32%).
- According to the *Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys* (FMLA Survey) published in July 2020, 21 percent of all qualifying employees took FMLA leave to care for a child. Additionally, seven percent (7%) of all employees had an unmet need for leave. For purposes of this analysis, it is assumed 3,548 FTEs annually will take advantage of this benefit to some extent [(12,673 x 21% = 2,661) + (12,673 x 7% = 887)].
- Based on the actual payroll expenditures for FY21-22, the estimated average salary for state employees is $88,322, or $339 per day.
- The estimated cost to the state for 3,548 employees who take 12 paid workweeks is $72,166,320 (3,548 FTEs x 12 workweeks x 5 days per workweek x $339).
- Based on information provided by DHR, approximately 78 percent of all FMLA leave is taken as leave with pay by using annual or sick leave. The provisions of this bill will result in leave days being used at a later time or accumulating throughout the employee’s tenure.
- Any accumulated annual leave at the time of an employee’s termination from state government is paid out based on the employee’s hourly rate at the time. While this will not result in a direct annual fiscal impact, it does create a fiscal liability for the state.
- Over the past three fiscal years, employees taking FMLA leave average 27 days of leave. The increase in fiscal liability to the state as a result of accumulated leave is estimated to be $18,997,784 (2,661 FTEs x 78% x 27 days x $339 per day).
- It is assumed 78 percent of those who are taking FMLA leave under the provisions of the legislation who would not have otherwise taken leave will result in an additional increase in liability to the state of $6,332,595 (887 FTEs x 78% x 27 days x $339 per day).
- The total increase in fiscal liability to the state resulting from accumulated leave is estimated to be $25,330,379 ($18,997,784 + $6,332,595).
- Due to 22 percent of FMLA leave being taken as leave without pay, it is assumed those savings will not be realized because of the paid leave resulting in a direct increase in annual state expenditures. The increase in expenditures in FY23-24 and subsequent years is estimated to be $5,358,349 (2,661 x 22% x 27 days x $339).
- The additional leave taken by employees will result in additional temporary staff or overtime being paid to cover the increased workload in the absence of the employee on parental FMLA leave. It is assumed that 10 percent of the additional leave will result in an increase in state expenditures of $4,780,917 [(2,661 x (60 days – 27 days) x 10%) + (887 x 60 days x 10%)] x $339].

Accrual of Annual and Sick Leave:

- The proposed legislation will grant annual accrual of annual and sick leave for the 12 months following a state employee's service anniversary date. The overall amount of leave an employee is accruing will not change.
- Any increase in workload for employees being able to take extended leave resulting from the proposed legislation is considered not significant.
- Any increase in administrative expenditures for the DHR to accommodate these changes are considered not significant.
- Based on information provided by the Division of Benefits Administration within the Department of Finance and Administration, the proposed legislation will allow for the state to cover 50 percent of dental insurance for enrollees and 100 percent of long-term disability benefits for all employees beginning in calendar year 2024.
- Based on current dental insurance enrollment and the projected increase of 15 due to the premium payments, the total number of enrollees is estimated to be 63,181 (54,940 x 1.15).
- The estimated blended premium rate in 2024 is $38.25 resulting in an increase in annual expenditures of $14,500,040 (63,181 x $38.25 x 12 months x 50%).
- The premium rate for long-term disability is 0.278 per $100 of Covered Monthly Payroll (CMP). The CMP is $407,282,393. The estimated increase in annual expenditures is $13,586,941 [0.278 x ($407,282,393/$100) x 12 months].
- There will be an additional annual vendor charge of $1,500.
- The annual increase in expenditures will be $28,088,481 ($14,500,040 + $13,586,941 + $1,500).
- Approximately 13.33 percent of state employee insurance benefits are funded with federal dollars resulting in annual increases in state expenditures of $24,344,287 ($28,088,441 x (100% - 13.33%) and federal expenditures of $3,744,194 ($28,088,481 x 13.33%).

Totals:

- The total increase in state expenditures in FY23-24 will be $22,311,410 [($5,358,349 + $4,780,917) + ($24,344,287 x 50%)].
- The increase in state expenditures in FY24-25 and subsequent years will be $34,483,553 ($5,358,349 + $4,780,917 + $24,344,287).
- The increase in federal expenditures will be $1,872,095 ($3,744,194 x 50%) and $3,744,189 in FY24-25 and subsequent years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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