

## Fiscal Estimate - 2023 Session

Original
  Updated
  Corrected
  Supplemental

<b>LRB Number</b> 23-1335/1	<b>Introduction Number</b> AB-1156	
<b>Description</b> the establishment of a family and medical leave insurance program; family leave to care for a family member and for the active duty of a family member; the employers that must allow an employee to take family or medical leave; allowing a local government to adopt ordinances requiring employers to provide leave benefits; providing an exemption from emergency rule procedures; providing an exemption from rule-making procedures; granting rule-making authority; making an appropriation; and providing a penalty		
<b>Fiscal Effect</b>  <b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue      5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Village <input checked="" type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS   20.445(1)(a), 20.445(1)(w)		
<b>Agency/Prepared By</b> DWD/ Erin Blair (608) 405-4657	<b>Authorized Signature</b> Jennifer Sereno (608) 267-9692	<b>Date</b> 4/1/2024

## Fiscal Estimate Narratives

DWD 4/1/2024

LRB Number	23-1335/1	Introduction Number	AB-1156	Estimate Type	Original
<b>Description</b> the establishment of a family and medical leave insurance program; family leave to care for a family member and for the active duty of a family member; the employers that must allow an employee to take family or medical leave; allowing a local government to adopt ordinances requiring employers to provide leave benefits; providing an exemption from emergency rule procedures; providing an exemption from rule-making procedures; granting rule-making authority; making an appropriation; and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

This bill expands family and medical leave eligibility for workers and establishes new duties for the Department of Workforce Development (DWD) related to administering a family and medical leave insurance program. Administrative duties include requesting information to determine an individual's eligibility for benefits and the amount and duration of those benefits; determining the contribution amounts of employees, self-employed individuals, and employers; and managing program funds including collection of overpayments.

Under the bill, the department must:

- Establish procedures and forms for filing claims for benefits,
- Establish procedures and forms for collecting contributions from self-employed individuals,
- Collect demographic information of claimants,
- Promulgate rules to implement the family medical leave insurance program,
- Integrate technology to facilitate the exchange of information as necessary for the department to perform its duties,
- Conduct a public outreach campaign to inform employers, employees, self-employed individuals, and other covered individuals regarding the family and medical leave insurance program, and
- Submit a report to the governor, the joint committee on finance, and the appropriate legislative standing committees by Sept. 1 of each year.

The bill creates s. 25.17(1)(er): Family and Medical Leave Insurance Trust Fund to consist of all funds deposited from contributions. It also establishes s. 20.445(1)(w): Family and medical leave insurance fund, a continuing appropriation for DWD to make payments of family or medical leave insurance benefits and for the administration of the proposed insurance program. Additionally, the bill increases DWD's position authority by 45.0 GPR FTE positions in fiscal year 2023-24 and by 198.0 GPR FTE positions in fiscal year 2024-25, and transfers \$258.5 million from the general fund to the Family and Medical Leave Insurance Trust Fund in the 2023-25 biennium.

Costs associated with establishing the Family and Medical Leave Insurance Program consist of one-time initial implementation costs, ramping up of expenses related to program administration, and payment of weekly benefits for qualified claims from eligible workers. For the purposes of this estimate, the department assumes that the revenue deposited into the trust fund, consisting of employee and employer contributions that start on Jan. 1, 2025, and the \$258.5 million transfer from the general fund, will be sufficient to cover costs incurred during the 2023-25 biennium, which ends on June 30, 2025. The department also assumes that the 198.0 GPR positions created by the bill are authorized at s. 20.445(1)(a) and would be funded by General Purpose Revenue beginning in the 2025-27 biennium, which starts on July 1, 2025.

A precise estimate of the Family and Medical Leave Insurance Program costs cannot be determined at this time. Multiple factors may influence contributor participation levels and annual use rates for these benefits. These variables will affect the costs covered by employer and employee contributions and the associated administrative and benefit costs.

Regarding the magnitude of initial one-time implementation costs for the Family and Medical Leave Insurance Program, the department has recent experience that suggests costs could range from \$70 million to \$80 million or more depending on final decisions related to program operation. Based on recent experience, the department anticipates that most of the cost of implementation would be for an IT system or systems to capture information necessary to collect contributions, process claims, manage adjudication, and distribute benefit payments. More information would be needed to estimate IT costs including:

- The number and scope of activities that could be automated within an IT system, versus completed manually;

- The number and types of system accounts needed, such as employee, employer, physician, and other accounts;
- Technical requirements related to uploading, sharing and storing documentation that is necessary to support claims;
- Functionality needs for contribution collections and benefit payment processing; and
- General data collection, reporting and storage requirements, including cybersecurity and HIPAA - related requirements.

Other one-time implementation activities included in the above cost range include outreach and communications; procurement and rules promulgation; the establishment of procedures and forms for collecting contributions, filing and processing claims; and the establishment of infrastructure needed to provide secure accounting systems for revenue collection and benefit payment transactions.

Regarding annualized expenditures related to program operations, the department is unable to provide a precise cost estimate at this time because an evaluation of the variables affecting participation and program use has not been completed. Examples of variables that are indeterminate at this time include:

- The number and scope of activities that must be completed manually, versus having automation incorporated in the collections, claims and benefit payment IT system;
- The number of claims per participant;
- The scope and complexity of the types of claims received;
- The claims certification process; and
- The level of fraud detection and prevention activity needed in early years versus later years of program delivery.

The department has evaluated staffing activities and utilization rate scenarios that approximate annual operating costs ranging from \$25 million to more than \$82 million. The \$25 million cost estimate assumes lower utilization and case complexity for the factors listed above and would cover the staff effort of approximately 200 FTE. For the \$82 million cost estimate, the department assumes a magnitude of claims and program complexity similar to DWD's Unemployment Insurance (UI) Program. The number of covered employers and employees under the proposed Family and Medical Leave Insurance Program could be similar in size to those that are covered by Wisconsin's Unemployment Insurance laws. As a point of comparison, during SFY 23 UI used approximately 550 FTE to deliver the administrative functions for the Unemployment Insurance program at a total operations cost of \$81.6 million.

In developing a benefit estimate, the department has identified three key cost components:

- the number of workers paying into the insurance program,
- the statutorily mandated payment calculation for the benefits paid to workers based on their earnings, and
- the utilization rate, which is composed of the percentage of covered employees that use the program and the duration of leave (number of weeks) taken per worker.

While the department has reliable data on the number of workers required to contribute, and their average earnings, program utilization will be dependent on the combination of individuals' personal situations and macro-economic conditions, resulting in an indeterminate cost estimate for benefits.

Using worker and earnings data from the Occupational Employment and Wage Statistics (OEWS) data set for Wisconsin, the department estimates at least 2.8 million workers would pay into the program. Using the benefit calculation formula detailed in the bill, the average weekly benefit payment amount for an employee that takes leave under the program would be \$911 in CY 2026 and \$941 in CY 2027. If the department were to assume that 5% of the 2.8 million covered workers would receive benefits and that those participants would receive benefits for an average of three weeks, the total imputed benefits would be approximately \$390 million in CY2026 and \$395 million in CY 2027. These benefit cost estimates also represent utilization equivalent to 1.5% of workers receiving benefits at an average of 10 weeks per recipient. Benefit estimates are bigger or smaller depending on many factors including employment, wages earned, and utilization of the program.

Wage growth is also a factor that contributes to an indeterminate estimate for annual benefit costs. The bill proposes a formula to calculate an individual's weekly benefit amount based on their earnings compared to average weekly earnings as determined under s. 108.05. Wage growth is not consistent among earning levels and has fluctuated since 2020. At this time, the department is unable to reasonably forecast future wage growth in order to refine an estimate of future annual benefit costs.

Local governments as employers are required to participate and contribute, with government entities having fewer than 50 employees contributing in tiered, reduced rates, as per the department by rule. Because program costs are indeterminate at this time, the department is unable to estimate contributions for local governments at this time. Therefore, the fiscal effect for local governments is currently indeterminate.

## Long-Range Fiscal Implications