HB 23-1104

Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 23-0635	**Date:**	February 2, 2023
Prime Sponsors:	Rep. Frizell	**Bill Status:**	House State Affairs
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Bill Topic: **DELAY IMPLEMENTATION PAID FAMILY MEDICAL LEAVE**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☒ Local Government
☒ Statutory Public Entity

The bill postpones the implementation of the Paid Family and Medical Leave Insurance Program for one year, to January 1, 2025, and requires employers to be credited for premiums paid between January and March of 2023 as an offset against premiums owed again on January 1, 2024. It will reduce state revenue from the current FY 2022-23 to FY 2023-24, increase state expenditures in FY 2023-24, and decrease expenditures for local governments and other public entities.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of $11.2 million to the Department of Labor and Employment.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1104

		Current Year FY 2022-23	Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	Cash Funds	($173 million)	($519 million)	-
Expenditures	General Fund	-	$11.2 million	-
Transfers		-	-	-
Other Budget Impacts	General Fund Reserve	-	$1.7 million	-

Summary of Legislation

Under current law, the Division of Family and Medical Leave Insurance (FAMLI) in the Department of Labor and Employment (CDLE) began collecting employer and employee program premiums on January 1, 2023, in order to pay for employee benefits beginning on the program's full implementation date, January 1, 2024.

The bill postpones the implementation of benefits under the program for one year, to January 1, 2025, and pauses premium payments in 2023 from April 1 to December 31. The division is required to credit employers for premiums paid during the first three months of 2023 as an offset against premiums owed starting January 1, 2024, when premiums under the bill start up again following the delay.

Background

The FAMLI program was approved by voters in November 2020 through citizen-initiated Proposition 118. Beginning January 1, 2023, 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 in order to finance paid family and medical leave insurance benefits. Beginning January 1, 2024, eligible employees may receive up to 12 weeks of paid family and medical leave insurance benefits. For more information about the program, see: famli.colorado.gov.

In preparation for program implementation, the FAMLI division has:

- opened an online portal for premium collections;
- worked with third-party payroll administrators to implement system updates, with payroll companies remitting premium payments beginning in April 2023; and
- conducted over 75 information sessions and several marketing campaigns.

The FAMLI program is to be funded entirely by premium payments, with two exceptions:

- Senate Bill 21-251 transferred $1.5 million to the Family and Medical Leave Insurance Fund. The funding was classified as a General Fund loan, to be repaid with interest by December 31, 2023; and
- House Bill 22-1133 prepaid premiums for state employees by transferring $57 million in federal dollars from the Revenue Loss Restoration Cash Fund to the Family and Medical Leave Insurance Fund for program implementation prior to premium revenues being received.

The FAMLI Division is considered an enterprise for purposes of TABOR as long as the division retains authority to issue revenue bonds and receives less than 10 percent of its total annual revenues in grants from all Colorado state and local governments combined.

Based on its most recent actuarial evaluation, the FAMLI division expects to receive a total of $692 million in premiums in calendar year 2023. The FAMLI division is estimated to have approximately 346 FTE once fully implemented, with administrative costs for the program totaling up to $72 million annually.

State Revenue

The bill reduces state revenue to the FAMLI Fund by $173 million in the current FY 2022-23 and $519 million in FY 2023-24. These amounts reflect premiums being delayed starting in April 2023 and resuming in April 2024, after accounting premium credits carried forward from the first three months of 2023.

State Expenditures

The bill requires a General Fund appropriation of $11.2 million in FY 2023-24 to the FAMLI division. The collection of premiums that began January 2023 was intended to fund all program costs associated with the FAMLI division beginning in FY 2023-24. Since the bill suspends premium collection, the division requires an additional appropriation to cover costs to maintain the division until premium collection resumes.

FAMLI Division. Currently, the FAMLI program is actively hiring new staff and has 59 FTE and multiple contracts in place for its IT system build, media campaigns, call center services, leased space, and other functions. The fiscal note assumes that the division will curtail hiring efforts and eliminate its 24 FTE call center staff until premium collection resumes, but will require an estimated $11.2 million to maintain existing contracts and essential program staff. It is also assumed that the division will require additional legal services support during the implementation delay.

Interest and loan repayments. For informational purposes, the bill will also impact interest payments on the state's prepayment of premiums under HB 22-1133. The interest rate on those premiums is 3.1 percent, which will accrue during the bill's postponement period, and is anticipated to total a $10.4 million state credit toward premiums in FY 2023-24, paid from the FAMLI fund. The fiscal note assumes the $1.5 million General Fund loan made pursuant to SB 21-251 will be due on December 31, 2024.

State employer impacts. Since the state already made employer prepayments to the FAMLI division through HB 22-1133, the bill does not significantly change state expenditures during the postponement period.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government – School District – Statutory Public Entity

Besides the first quarter payments made in the current FY 2022-23, all local, school district, and statutory public entity employers will have a one-year delay in making additional employer premium payments to the FAMLI division.

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Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of $11,168,635 to the Department of Labor and Employment.

State and Local Government Contacts

Labor	Personnel