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Legislative Fiscal Office ***Only Impacts on Original or Engrossed Versions are Considered Official***

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Measure Description:
Creates family and medical leave insurance program to provide employee who is eligible for coverage with portion of wages while employee is on family leave or medical leave.

Government Unit(s) Affected:
Employment Department (OED), Department of Revenue (DOR), Bureau of Labor and Industries (BOLI), Department of Consumer and Business Services (DCBS), Department of Administrative Services (DAS), Oregon Judicial Department (OJD), Department of Justice (DOJ), Oregon Health Authority (OHA), Department of Human Services (DHS), Statewide, Community Colleges, Public Universities, Cities, Counties, School Districts, Special Districts

Summary of Fiscal Impact:
Quantifiable costs related to the measure will require budgetary action. In addition, certain elements of the fiscal impact are indeterminate, at this time - See analysis.

Summary of Expenditure Impact:

	2019-21 Biennium	2021-23 Biennium
Employment Department - General Fund		
Personal Services	4,380,586	7,082,176
Services and Supplies		
Position Related S&S	747,000	1,188,000
Change Management	100,000	200,000
Independent Actuarial Study	600,000	600,000
DAS Procurement	2,340,000	-
Department of Justice Fees	80,000	60,000
Solution Vendor	6,000,000	20,000,000
Quality Assurance	600,000	2,000,000
End User Testing and Focus Groups	-	100,000
Backend Software Server Upgrades	-	150,000
Phone System	-	875,000
Facilities/Furniture/Equipment	841,000	5,635,000
Subtotal Serves and Supplies	11,308,000	30,808,000
Total General Fund - Employment Department	**$15,688,586**	**$37,890,176**
Positions	33	33
FTE	20.75	33.00

Note that expenditures projections in the table above represent only those expenditures for the Initial and Expanded Planning Teams for the Paid Family and Medical Leave Insurance Program (FAMLI). On-going administrative costs, the cost of FAMLI benefit payments, the costs of contributions for the state as an employer, and other costs are indeterminate until the Department of Employment establishes rules and operational processes for the program.

Analysis:

HB 2005, with the -4 amendment, creates a paid family and medical leave insurance program (FAMLI) to be administered by the Oregon Employment Department (OED), or a third party contracting with OED, to provide employees compensated time off from work to: care for and bond with a child during the first year of the child's birth or arrival through adoption or foster care; to provide care for a family member who has a serious health condition; to recover from their own serious health condition; and to take leave related to domestic violence, stalking, sexual assault or harassment (safe leave).

The measure establishes the following operative dates:

- Rules will be established no later than September 1, 2021
- Contributions will be collected beginning January 1, 2022
- Benefits are payable beginning January 1, 2023
- The measure takes effect on the 91st day after sine die, assumed to be October 1, 2019

The measure appropriates an unspecified amount of General Fund to the Oregon Employment Department for the 2019-21 biennium to pay for the start-up costs of establishing the program. The appropriation is reimbursable to the General Fund, without interest, when the department determines that the balance in the PFML Insurance Fund is sufficient, but no later than January 1, 2023.

Oregon Employment Department (OED)

The Employment Department anticipates either establishing a new division within the department to plan for, create, and then administer this new statewide program or conducting research to examine the efficacy of contracting with a third party to administer the program. This fiscal impact analysis includes only those expenditures for the Initial and Expanded Planning Teams for the program. Estimates of revenues, benefits paid, and expenditures for on-going operations beyond 2019-21 will be further evaluated and analyzed by the planning teams. Because OED cannot identify any paid family and medical leave programs being operated by a third party, and therefore cannot estimate the cost or impact of contracting with a third party, this fiscal impact analysis assumes that OED would operate the program.

OED estimates thirteen positions will be needed for the Initial Planning Team, which will oversee the development of the program's rules and functions as specified in the measure, and begin the process for the acquisition of an information technology system. OED estimates an additional twenty positions will be needed for the Expanded Planning Team for establishing on-going operations and planning the information technology solution. Hiring of positions will begin on October 1, 2019 based on the assumption the General Fund loan will be available on 10/1/2019. All positions are assumed to be limited duration full-time positions, and phased-in at various times during the 2019-21 biennium:

POSITION COUNT	HIRE DATE	FTE	POSITION CLASSIFICATION	POSITION TITLE / DESCRIPTION
INITIAL PLANNING TEAM				
Program				
1	10/1/2019	0.88	Principal Executive Manager G	PFML Director
1	10/1/2019	0.88	Executive Support Specialist 2	Executive Support Specialist
1	10/1/2019	0.88	Information Systems Specialist 8	Project Manager
1	12/1/2019	0.79	Operations and Policy Analyst 2	Business Analyst
1	12/1/2019	0.79	Operations and Policy Analyst 3	Business Analyst
1	12/1/2019	0.79	Operations and Policy Analyst 3	Business Analyst
1	12/1/2019	0.79	Operations & Policy Analyst 4	Analyst - Third Party & Other State Solutions
1	12/1/2019	0.79	Actuary 4	PFML Insurance Fund
Administrative / Operational Capacity				
1	12/1/2019	0.79	Human Resource Analyst 2	Classification and Compensation
1	12/1/2019	0.79	Public Affairs Specialist 2	Outreach education and board support
1	12/1/2019	0.79	Fiscal Analyst 3	Budget Analyst
1	12/1/2019	0.79	Information Systems Specialist 7	IT Business Analyst - tax collection, methodology and requirements
1	12/1/2019	0.79	Information Systems Specialist 8	Sr Analyst/Project Lead - Architect
13		10.54		

POSITION COUNT	HIRE DATE	FTE	POSITION CLASSIFICATION	POSITION TITLE / DESCRIPTION
EXPANDED PLANNING TEAM				
Program				
1	3/1/2020	0.67	Operations and Policy Analyst 2	Operational policies
1	3/1/2020	0.67	Operations and Policy Analyst 2	Operational policies
1	3/1/2020	0.67	Operations and Policy Analyst 2	Operational policies
1	3/1/2020	0.67	Operations and Policy Analyst 2	Operational policies
1	3/1/2020	0.67	Principal Executive Manager F	PFML Deputy Director
Administrative / Operational Capacity				
1	3/1/2020	0.67	Information Systems Specialist 7	IT Business Analyst - benefit payments/development
1	3/1/2020	0.67	Information Systems Specialist 7	IT Business Analyst - accounting processes/development
1	3/1/2020	0.67	Accountant 4	PFML Accountant
1	4/1/2020	0.63	Project Manager 2	Facilities Project Manager
1	7/1/2020	0.50	Procurement and Contract Specialist 3	Procurement
1	7/1/2020	0.50	Operations & Policy Analyst 4	Confidentiality and Data Security Analyst
1	10/1/2020	0.38	Information Systems Specialist 8	Project Manager
1	10/1/2020	0.38	Information Systems Specialist 8	Integration
1	10/1/2020	0.38	Information Systems Specialist 7	Systems Administrator
1	10/1/2020	0.38	Information Systems Specialist 7	Systems Administrator
1	10/1/2020	0.38	Information Systems Specialist 7	Systems Administrator - Network
1	10/1/2020	0.38	Information Systems Specialist 7	Data Analyst
1	10/1/2020	0.38	Project Manager 1	Scheduler
1	10/1/2020	0.38	Principal Executive Manager D (IT)	IT Manager
1	1/1/2021	0.25	Information Systems Specialist 4	Help Desk Staff
20		**10.21**		
33		**20.75**		

Although the actual cost of an information technology system to support FAMLI will be determined based upon results from a request for proposal process, OED estimates the total cost of the system, based on information from the state of Washington, to be $60 million. The new program will require extensive project management, business process and data mapping, and procurement assistance, including new information technology systems to administer the employer reporting and payment aspects of FAMLI, benefit administration and payment, track employer equivalent plans, and small business assistance funds. The information technology project will require the Employment Department to comply with the state's Stage Gate Review Process. Therefore, the information technology pricing component of this impact statement serves as a high-level preliminary approximation. If this measure passes, the agency will have to: (1) complete business requirements analysis; (2) develop a business case; and (3) develop foundational project management plans to demonstrate the feasibility of the project and its scope, as well as cost and schedule estimates, pursuant to protocols developed by the Office of the State Chief Information Officer (OSCIO) and the Legislative Fiscal Office. Because of the Stage Gate Review Process, the Services and Supplies pricing includes only preliminary costs for the system. DAS procurement costs are based on the DAS Price List calculation of 3.9% of the estimated $60 million contract costs.

In addition to in-house actuarial expertise, OED also expects to acquire contracted actuarial services specific to the program. Phone system capacity costs assumes expansion of the existing Unemployment Insurance program phone system to accommodate the program.

Department of Revenue (DOR)

The Department of Revenue must ensure that contributions from all employee wages are paid to the FAMLI Fund in addition to issuing a matching employer contribution to the FAMLI Fund. Additionally, any liquidated and delinquent debts that the Employment Department cannot collect will be transferred to DOR's Other Agency Accounts (OAA) unit for additional collections activity. The amount of liquidated and delinquent FAMLI debts transferred may have a significant impact on OAA's current resources to collect. DOR may also provide additional outreach support for the Employment Department through an interagency agreement if necessary. Although the fiscal impact of this bill to DOR is minimal for the 2019-201 biennium. DOR estimates the fiscal impact for 2021-23 to be $858,254 Other Funds and seven positions (5.25 FTE).

Department of Consumer and Business Services (DCBS), Bureau of Labor and Industries (BOLI)
The measure specifies that the Employment Department would set the contribution rate that is paid by employees and employers through payroll deduction, and contributions would go into the FAMLI Fund to pay benefits and administrative expenses. Rulemaking authority on contribution payment and related reporting is given to DOR. The combined payroll reporting process Oregon businesses use to file reports and make payments for several different taxes and programs is shared by DOR, the Department of Consumer and Business Services, and the Employment Department, and will require coordination among the agencies to facilitate how reports will be filed and contributions paid. The measure stipulates that DCBS, DOR, and BOLI may enter into intergovernmental agreements with the Employment Department for outreach, technical assistance, or compliance services. The fiscal impact of this work is indeterminate depending on the scope of work and the terms of the agreement.

In addition, the measure allows an employee who alleges a violation of the job protections provided in the measure to bring a civil action or to file a complaint with BOLI beginning January 1, 2025. The impact of this provision is indeterminate.

Department of Administrative Services (DAS)
With passage of this measure, state agencies will be required to track certain personnel information and report contribution amounts quarterly to the Department of Revenue. Assuming DAS will assist agencies with the reporting process and would develop payroll deduction codes to account for and track both the employee and employer contribution amounts, DAS will potentially need additional staffing and resources to update Workday, make changes to the statewide payroll system, and work with the Employment Department to develop the process to deliver the contributions to the appropriate program in charge of the Paid Family and Medical Leave Insurance Fund. This work will need to be integrated with the Oregon State Payroll System replacement project that will begin July 1, 2019.

Oregon Health Authority (OHA), Department of Human Services (DHS)
Passage of this bill will require modifications to OHA and DHS information technology systems, including the Client Employed Provider (CEP), eXPRS, and Integrated Eligibility (IE) systems. Furthermore, DHS notes that Personal Support Workers and Home Care Workers are included in the class of eligible employees. In addition to increased leave benefits and healthcare costs, DHS anticipates costs associated with recruiting and enrolling in-home providers to cover for workers on leave.

Department of Justice (DOJ)
DOJ reports that the agency will need additional staff and resources to address the workload associated with providing legal advice to OED, BOLI, DOR, and DAS in establishing the new program. DOJ estimates to cost of one part-time Assistant Attorney General position to be $148,313 Other Funds (0.44 FTE) for the 2019-21 biennium; and $165,460 Other Funds (0.50 FTE) for the 2021-23.

Oregon Judicial Department (OJD)
Passage of this measure is anticipated to have indeterminate, but predicted to be absorbable, impact on the Circuit Courts and the Court of Appeals as arbiters of disputes that may result from the measure.

Statewide, Local Governments, Tribal Government, Public Universities, Community Colleges
The bill provides that if an employer offers an equivalent paid family and medical leave employer plan approved by the Employment Department, then neither the employer nor covered employees are required to make contributions to the FAMLI Fund. Although the comprehensive fiscal impact of this measure on state agencies,

local governments, Tribal governments, public universities, and community colleges is indeterminate depending on an amalgamation of factors, including whether an employer offers an equivalent plan, the following is are some considerations of costs for these entities:

Employer Contribution: The fiscal impact of this measure on state agencies as an employer is indeterminate depending on the contribution rate and the percentage of this rate to be paid by state agencies. The measure stipulates that the contribution rate set by the Director of Employment may not exceed 1% of the employee's wages. The employer would pay up to 40% of that total rate determined by the Director. However, Section 16 (5) of the measure states that an employer may elect to pay the required employee contributions in whole or in part, as an employer-offered benefit. Because contributions will be collected beginning January 1, 2022, state agencies will incur this cost beginning with the 2021-23 biennium. As a frame of reference, based on the 2017-19 approved budget statewide salary expenditures of $5.4 billion total funds, if the rate is set at the 1% maximum and the state pays 40% of the total rate, the employer contribution for state agencies would have been approximately $21.5 million total funds per biennium.

Human Resource Management: Passage of this measure require each state agency's human resources department to engage in a review and revision of personnel policies and conduct training for supervisors who administer rules and policies. In addition, state agencies may incur costs related to human resources and payroll systems modifications.

Leave Benefits: The measure expands the job protected family leave time periods currently available to state employees under FMLA and OFLA. Under current law, the majority of state employees are entitled to 12 weeks of job protected family and medical leave. FMLA/OFLA leave is not required to be paid, however an employee is required to take any accrued vacation and sick leave before commencing unpaid leave. This measure would increase the total leave time available to a maximum of 18 weeks of job protected leave per year starting in 2023 and every year thereafter. Although it is difficult to predict the total number of employees who would take paid family leave under this measure, it is reasonable to assume that the number of employees who take leave would increase over the current number and duration given that benefits would be paid at a high percentage of the employee's average weekly wage. The measure also expands the definition of family members for whom an employee may take leave to care for, which could increase the number of employees who take paid leave.

Health Benefits: The measure requires state agencies to maintain health insurance for an employee during the duration of the leave. Under current practice, the state maintains health insurance for employees who take FMLA/OFLA leave; this measure could increase the duration that the state would be required to maintain health insurance for an employee on leave. Passage of this measure could result in increased health insurance costs for the state, beginning January 1, 2023 when employees become eligible for leave under the measure.

Coverage for Employees on Leave: With passage of this measure, state agencies will incur expenses associated with covering job duties for employees on leave. Although some employee leave could be covered by existing employees through job rotations, job sharing, overtime, or coverage, the increased duration of the leave may require state agencies to hire temporary employees, especially in the event that multiple employees in one division simultaneously request leave under the measure. These expenses are difficult to calculate given the range in salaries, job duties, and the practicalities of hiring new employees for a limited duration. The additional number of recruitments needed will be dependent on the length of leave taken, the availability of other employees to perform coverage, and other factors that are difficult to predict. It is anticipated the measure will result in some additional recruitments for temporary employees each year, beginning in 2023 when employees become eligible for leave under the measure. Note that this cost could be substantial for school districts that will need to recruit and hire substitutes for teachers on leave.

Department of Justice and Office of Administrative Hearings Expenses: Under the measure, job protected leave is available to all employees who have been employed by the employer for more than 90 days prior to taking leave. Interference with this right or retaliation for applying for leave or invoking any rights under the measure is an unlawful employment practice. It is anticipated that the state could potentially be subject to an indeterminate number of claims or allegations under this provision which would require additional funds to be spent on legal defense of these claims.