Fiscal Note

Legislative Council Staff

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SB 25-074: HIGHLY SPECIALIZED EMPL LEAVE PROTECTION EXEMPTION

Prime Sponsors:
Sen. Bright
Rep. Barron

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Bill Outcome: Postponed Indefinitely
Drafting number: LLS 25-0691

Version: Final Fiscal Note
Date: July 24, 2025

Fiscal note status: The final fiscal note reflects the introduced bill. This bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on February 11, 2025; therefore, the impacts identified in this analysis do not take effect.

Summary Information

Overview. The bill would have allowed employers with a workforce of 51 percent or more highly specialized employees to apply to be exempted from offering certain protections under the Paid Family and Medical Leave Insurance Program.

Types of impacts. The bill was projected to affect the following areas on an ongoing basis:

- State Expenditures

Appropriations. For FY 2025-26, the bill would have required an appropriation of $125,602 to the Department of Labor and Employment.

Table 1A
State Fiscal Impacts

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	$0	$0
State Expenditures	$139,384	$274,792
Transferred Funds	$0	$0
Change in TABOR Refunds	$0	$0
Change in State FTE	0.7 FTE	3.0 FTE

[1] Fund sources for these impacts are shown in the table below.

Table 1A
State Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	$0	$0
Cash Funds	$125,602	$217,642
Federal Funds	$0	$0
Centrally Appropriated	$13,782	$57,150
Total Expenditures	**$139,384**	**$274,792**
Total FTE	**0.7 FTE**	**3.0 FTE**

Summary of Legislation

Currently, when an employee takes leave under the state's Paid Family and Medical Leave Insurance (FAMLI) Program, the employer must hold the employee's job and maintain the employee's health care benefits until the employee returns. The bill establishes an exception to these requirements for employers with a workforce of 51 percent or more highly specialized employees. The bill defines "highly specialized employee" as an employee with job responsibilities that:

- are not easily transferrable to other employees without significant training;
- require a specific advanced degree or qualification; or
- require a skill set that is rare or in high demand.

By March 1, 2026, the Division of Family and Medical Leave Insurance in the Department of Labor and Employment must have established an application process for employers to apply annually for the highly specialized employee exemption, and may adopt rules as necessary.

Background

The federal Family Medical Leave Act allows eligible employees to take unpaid, job-protected leave for up to 12 weeks during a 12-month period for specified family and medical reasons.

The state FAMLI program allows eligible employees to access up to 12 weeks of paid leave during a 12-month period for specified family and medical reasons.

Assumptions

Highly Specialized Employees

The bill creates and defines the new category of "highly specialized employee." There is currently no reliable way to measure this population of employees, nor to measure how many employers maintain a workforce of 51 percent or more highly specialized employees. Certain industries, such as the energy and technology industries, may potentially have a large number of employers eligible to use the FAMLI exemption created by this bill. Employers in these sectors represent a relatively small number of employers relative to the total number of employers that currently pay into the FAMLI program.

State Expenditures

The bill increases state expenditures for the FAMLI program in the CDLE by about $139,000 in FY 2025-26 and $275,000 in FY 2026-27 and ongoing years. These costs, paid from the FAMLI Fund, are summarized in Table 2. The bill may also impact workload in the Judicial Department. These expenditure impacts are described in more detail below.

Table 2
State Expenditures
Department of Labor and Employment

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27
Personal Services	$54,696	$213,802
Operating Expenses	$896	$3,840
Capital Outlay Costs	$20,010	$0
Programming Costs	$50,000	$0
Centrally Appropriated Costs	$13,782	$57,150
Total Costs	**$139,384**	**$274,792**
Total FTE	**0.7 FTE**	**3.0 FTE**

Staff

The FAMLI program requires 0.7 FTE in FY 2025-26 and 3.0 FTE in ongoing years for labor and employment specialists to develop a standard application process for exemptions and review employer applications on an annual basis. One specialist will begin in FY 2025-26 to support rulemaking and develop the project plans by March 2026. In June 2026, when employers can begin applying for the exception, two additional specialists will being work reviewing and investigating applications. Standard capital outlay and operating costs are included.

Programming

The FAMLI program requires an estimated $50,000 in FY 2025-26 for computer programming to modify the FAMLI internal platform to receive, review, and process applications.

Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, leased space, and indirect cost assessments, are shown in the expenditure table above.

Judicial Department

The bill may lead to an increase in court cases for individuals that feel they were unlawfully terminated or employees that feel their employer received an improper FAMLI exemption. Any increase is absorbable with existing resources.

Technical Note

The bill does not specifically refer to whether exempt employers and employees would continue to pay FAMLI premiums and be eligible for benefits. As FAMLI is a state enterprise, any revenue change is not subject to TABOR. Impacts related to benefit payments have not been estimated.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2025-26, the bill requires an appropriation of $125,602 from the FAMLI Fund to the Department of Labor and Employment, and 0.7 FTE.

Departmental Difference

The CDLE estimates that the bill requires $2.7 million and in FY 2025-26, $2.0 million in FY 2026-27, and similar amounts in ongoing years. These costs include 18.0 FTE for labor and employment specialists in the Division of Family and Medical Leave Insurance, as well as $930,000 in FY 2025-26 and $390,000 in FY 2026-26 for computer programming and system maintenance. This estimate uses the FAMLI Program's entire Audit, Compliance, and Enforcement Branch, which consists of 18.0 FTE, as a proxy for the workload under this bill. The fiscal note includes less staff (3.0 FTE) based on the assumption that a small number of employers will apply for the exemption. It also assumes that the department's proposed computer system updates to automate this process is a more expensive way to implement the bill, and therefore reduces programming costs by $880,000 and eliminates ongoing maintenance costs relative to the department estimate.

State and Local Government Contacts

Judicial

Labor

Personnel