

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 5166

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: DECEMBER 21, 2023

SUMMARY

- Synopsis:** Revises law concerning family leave to extend protection by reducing, over time, employee threshold from 30 employees to five employees in definition of employer.
- Type of Impact:** Annual expenditure and revenue increases to the State Disability Benefits Fund, specific to the family leave element.
- Agencies Affected:** Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>CY 2024</u>	<u>CY 2025</u>	<u>CY 2026</u>
State Cost Increase	Up to \$35.6 Million	Up to \$90.7 Million	Up to \$133.7 Million
State Revenue Increase	\$0	Up to \$113.4 Million	Up to \$167.1 Million

- The Office of Legislative Services (OLS) estimates that the bill, once the changes are fully phased in starting in calendar year (CY) 2026, will result in an annual increase in expenditures of up to \$133.7 million, which includes \$2.4 million for increased administrative costs, and an annual increase in revenue collections of up to \$167.1 million to the family leave insurance (FLI) component of the State Disability Benefits Fund (SDBF). The bill expands the eligibility rules in three phases, with the employee threshold reduced annually.
- The estimated CY 2025 and CY 2026 revenue increases include a build-up in SDBF reserves for the additional FLI benefit payments, as required by statute.
- The OLS notes that employees will pay for the entire cost of the bill through increases in employee FLI wage tax assessments.

BILL DESCRIPTION

The bill reduces the threshold at and above which employers must grant unpaid family leave to employees without terminating employment because of the leave. Current law exempts employees at firms employing 30 or fewer employees from job protection. The bill reduces the

threshold to 20 employees effective January 1, 2024, and further reduces the threshold to 10 and five in 2025 and 2026, respectively.

The bill makes no other changes in eligibility requirements, benefit duration, or maximum benefit calculations. Benefits will remain at 85 percent of the employee wages, subject to a maximum of 70 percent of the statewide average weekly wage. For 2023, the maximum benefit is set at \$1,025 per week, increasing to \$1,055 per week in 2024.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Department of Labor and Workforce Development provided analysis of the current employee contributions and benefit payments as part of the FY2024 budget process. FLI contributions in CY 2022 were \$431.0 million, and benefits paid were \$443.1 million. The CY 2022 withholdings were at a rate of 0.14 percent for the first \$151,900 in earnings. The CY 2023 forecast was for \$204.0 million in contributions with \$546.7 million in benefits paid. The CY 2023 withholdings were reduced to a rate of 0.06 percent on the first \$156,800 of earnings in order to account for a surplus balance in the family leave account. These data are used as the baseline for this analysis.

The enactment of P.L.2019, c.37 reduced the threshold for job protection from 50 to 30 employees, which increased the employees eligible for job protection by about eight percent. Benefit claim volumes increased approximate to the increase in employees eligible for job protection. Using New Jersey-specific data from the 2020 US Census Bureau reporting, which tracks employment by enterprise size, the OLS can generate an estimate on the increase in the number of employees eligible for job protection in each phase under this bill. CY 2024 expands job protection to firms employing 20 or more. The total number of employees working at firms that employ between 20 and 30 employees is approximately 170,000, or a 5.8 percent increase in the eligible workforce. The OLS model applies this uplift to the forecasted \$546.7 million in benefits paid in CY 2024, along with a +/- 10 percent factor, resulting in an expenditure increase of at most \$35.6 million.

CY 2025 further expands the eligibility to include firms employing 10 or more employees. Applying the enterprise size data, this results in an increase in job protection eligibility of 490,000, or 16.7 percent compared to the baseline. The OLS model generates an expenditure increase of at most \$90.7 million.

CY 2026 completes the rollout, with family leave eligibility moving to all firms with five or more employees. This change expands the eligibility by 700,000 workers or 23.7 percent compared to the baseline year. The OLS model generates an expenditure increase of at most \$133.7 million.

Given the statutory requirement to maintain a withholding rate of 125 percent of the anticipated annual benefit spending, and with the CY 2024 withholding rate of 0.09 percent already established, it is anticipated that the contributions will have to increase by up to \$113.4 million in CY 2025 and up to \$167.1 million in CY 2026 to both balance the new projected payouts as well as attain the statutory requirements.

Note that the OLS revenue projections are based on assumptions regarding trust fund balances and claim activity. The Department of Labor and Workforce Development will align the withholding amounts based on the actual claim experiences within a particular calendar year and adjust the withholding calculation accordingly to create the resulting projected balances to align with statutory requirements.

The OLS model assumes an increase in administrative spending that is proportional to the base increase assumed by the expanded job protection eligibility. These numbers, when applied to the \$10.5 million in administrative costs in the CY 2023 baseline, yield expenditure increases of \$600,000 in CY 2024, \$1.8 million in CY 2025, and \$2.4 million in CY 2026.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).