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Fiscal Note

2021-2022 Legislative Session

HF41 - 2A - Essential Workers Emergency Leave Act

Chief Author: **Cedrick Frazier**
 Committee: **Labor, Industry, Veterans and Military Affairs Finance and Policy**
 Date Completed:
 Agency: **Minn Management and Budget**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	13	-	-	-	-	-
Total	13	-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
General Fund	.08	-	-	-	-
Total	.08	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
General Fund	13	-	-	-	-	-
Total	13	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	13	-	-	-	-	-
Total	13	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

This bill provides up to 80 hours of paid leave, compensated at 100% pay, to full-time essential workers (pro-rated for part-time employees) for use for their own COVID-19 related health needs, to care for other individuals isolating or quarantining due to COVID-19, or to care for a child whose school or place of care is closed due to COVID-19. The bill would apply retroactively to March 13, 2020, and expires 30 days after the end of the peacetime emergency.

Essential workers include employees who are emergency responders and healthcare providers as defined in 29 CFR 826.30(c), and public-school employees, as well as employees and contractors of nursing homes, housing with services establishments, and boarding care homes.

Employers who have previously provided paid COVID-19 leave with the same or better benefits can count any such leave against the leave entitlement under the bill. (“[I]f an employer has already provided an essential worker with additional paid leave for any reason provided in subdivision 2, and the leave is in addition to the regular amount of paid leave provided by the employer and would compensate the essential worker in an amount equal to or greater than the amount of compensation provided under this section, the employer may count the hours of other additional paid leave toward the total number of hours of emergency paid sick leave required under this section.”)

Assumptions

The State has had a Paid COVID-19 Leave policy in effect since March 18, 2020, and the policy can generally be used for the same COVID-19 reasons as in the bill; however there are some significant differences between the State’s policy and the bill.

The State’s Paid COVID-19 Leave Policy applies to executive branch agencies, Minnesota State Retirement System, Public Employees Retirement Association, and Teachers Retirement Association.

The bill guarantees a total of 80 hours of paid leave (pro-rated for part time) to “essential workers” as defined in the bill. It is assumed that this would include employees covered under Minnesota Nurses Association (nurses), Minnesota Law Enforcement Association (law enforcement), and AFSCME Unit 8 (correctional officers), all positions that are licensed peace officers, all employees of the Department of Corrections correctional facilities, all employees of the Perpich school and Minnesota State Academies, public health personnel at Minnesota Department of Health, agency emergency management personnel, agency public works personnel, as well as employee and contractor staff of Department of Human Services-Direct Care and Treatment and the Minnesota Veterans Homes (Department of Veterans Affairs). Most of

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these positions are considered Priority 1 or 2 Critical Services providers under the State's Paid COVID-19 Leave policy, and under the policy, agencies could deny them leave, if necessary, for the State of Minnesota's response to COVID-19.

The bill is retroactive to March 13, 2020. It is assumed that essential workers who used vacation or sick leave accruals or unpaid leave for reasons covered under the bill will have their prior leaves adjusted to be covered by the bill's leave entitlement, and any vacation or sick leave accruals restored.

To some degree, the State's Paid COVID-19 Leave policy provides the same benefits as the bill and will offset the benefit available under the bill. Until July 22, 2020, all forms of leave under the policy were provided at 100% pay, and with no cap on hours or on compensation amounts. Because, until July 22, 2020, the State's policy provided at least the same benefits as the bill, any amount of leave essential workers took under the State's Paid COVID-19 Leave policy between March 18, 2020 and July 21, 2020, will offset any entitlement under the bill.

Since July 22, 2020, the State's Paid COVID-19 Leave policy provides paid leave for employees' own COVID-19 related health needs at 100% pay, with a \$511 per day daily cap ("Health Leave"). Since July 22, 2020, the State's Paid COVID-19 Leave policy provides leave at 2/3 pay with a \$200 per day cap for the two other leave uses ("Care Leave" and "School Leave"). Essential workers who took Health Leave under the State's policy, whose normal compensation is less than the daily cap, will have those hours offset any entitlement under the bill, since the benefit under the Paid COVID-19 Leave policy has the same value for those individuals as the benefit under the bill. It is assumed that essential workers who were not paid full compensation for Health Leave due to the daily cap, and essential workers who took Care Leave or School Leave, will have any vacation, sick or unpaid leave used for those purposes converted into paid leave under the bill, and then those hours will offset the entitlement under the bill.

Since the State's Paid COVID-19 Leave policy expires with the peacetime emergency, and the leave entitlement under the bill expires 30 days after the expiration of the peacetime emergency, it is assumed that essential workers will take leave over a longer period of time under the bill than under the State's policy. For purposes of the fiscal note, the bill's expiration is assumed to be July 30, 2021.

Under the State's Paid COVID-19 Leave policy, essential workers can be denied leave. Since under the bill, essential workers cannot be denied leave, it is assumed that essential workers will take more leave under the bill than under the State's policy. It is assumed agencies that employ essential workers will experience increased staffing costs attributable to backfilling essential workers taking leave to maintain minimum staffing levels, and to continue fulfilling the State's critical responsibilities in responding to COVID-19. To the extent replacement workers are unavailable, the work will need to be covered through overtime by existing staff. Overtime is generally paid at 1.5 times, which will further expand staffing costs. It is assumed that the following agencies/divisions may require replacement workers or may incur overtime costs due to essential workers taking leave under the bill (although this may not be an exhaustive list): Department of Human Services-Direct Care and Treatment, Department of Veterans Affairs, Department of Corrections, Department of Public Safety-State Patrol, Department of Health, and the Department of Employment and Economic Development.

Finally, under lines 2.9-2.17 of the bill, personnel "under contract" with a hospital, boarding care home, housing with services establishment or nursing home are entitled to the paid leave. It is assumed that Department of Human Services-Direct Care and Treatment and the Minnesota Veterans Homes (Department of Veterans Affairs) satisfy these definitions and accordingly would be required to provide paid leave under the bill to contract staff. Currently, these agencies provide no paid leave to contract staff.

Expenditure and/or Revenue Formula

Costs to MMB's Statewide Payroll Services Unit

Because this bill provides a new type of leave available to certain state agency employees, and because it will require some amount of retroactive adjustment to leaves already taken, there will be administrative costs to MMB's Statewide Payroll Services Unit and MNIT@MMB. Costs are attributable to creating multiple new earnings codes for the leave in SEMA4, the State's HR and payroll system. Due to the new earnings codes, programming costs will be incurred for updates to edits in the system, as well as reports, which are used by agency staff. MMB's Statewide Payroll Services Unit will also need to provide communications and guidance to agency payroll staff about the use of the leave and steps for recording the leave retroactively. The number of hours estimated below are informed by the work required to extend Paid COVID-19 Leave-types in the SEMA4 system into calendar year 2021.

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MMB Statewide Payroll Services Unit and MNIT@MMB hourly wage costs are assumed to be at the top of the salary range for a given classification, as that is generally the wage rate paid to staff who currently work in these positions in these units. Fringe costs are assumed to be 33.40% of salary, which is the average percentage for all MMB employees as projected in the SEMA4 system in FY 2021. Employee overhead costs are assumed to be 17.68% of total salary and fringe costs. Overhead includes costs such as space, IT, phone, supplies, printing, training, and travel. In FY 2020, 17.68% of MMB's total general fund operating budget was spent on non-payroll employee overhead costs.

-90 hours: Information Technology Specialist 5 - technical staff time for programming

$$\$57.78 \times 90 \text{ hours} \times 1.3340 = \$6,937$$

-60 hours: Finance Specialist 3 - functional staff time for requirements definition and testing

$$\$45.36 \times 60 \text{ hours} \times 1.3340 = \$3,631$$

-6 hours: Finance Accounting Supervisor and Finance Specialist 2 - functional staff time for communication / implementation

$$\$52.01 \times 3 \text{ hours} \times 1.3340 = \$208$$

$$\$42.24 \times 3 \text{ hours} \times 1.3340 = \$169$$

Subtotal (salary and fringe): \$10,945

Subtotal (overhead): \$1,935

Total costs (FY 2021): \$12,880

FTE (FY 2021): 156 hours / 2,080 hours = 0.08 FTE

Costs to state agencies for retroactive pay

To determine the cost attributable to the additional "1/3" of pay for those on COVID-19 Care Leave or COVID-19 School Leave retroactive to July 22, 2020, through the pay period end date of February 16, 2020, for agencies subject to the State's Paid COVID-19 Leave Policy, MMB reviewed payroll time entry for each employee who used one of the COVID-19 Leave specific payroll earnings codes during each two-week payroll period from July 22, 2020, through February 16, 2020. For each employee who used one of the COVID-19 Leave types that was paid at the 2/3 rate, MMB evaluated whether the employee 'backfilled' the additional 1/3 pay with other accrued paid leave types such as accrued sick, vacation, or compensatory leave. In cases where an employee did not backfill in order to bring their earnings up to the full 100% rate, MMB multiplied their hourly rate by 1/3, and multiplied the 1/3 amount by the total number of COVID-19 Care or COVID-19 School Leave hours taken during the pay period. The total additional 1/3 of pay that would be owed retroactively totaled an average of \$15,000 across the enterprise per pay period. Over that period of 15 pay periods, the amount totals \$225,000. If annualized, over approximately 26 pay periods in a year, the amount totals \$390,000. The \$15,000 per pay period amount is inclusive of all employees--about 90 employees per pay period saw an average payroll reduction of \$170. However, because this bill is limited to only essential workers, the total number of essential workers affected and the total amount owed by state agencies would be less. Because there is not an "essential worker" designation in the SEMA4 system, MMB is unable to determine for this fiscal note which employees are essential and thus eligible to receive the retroactive pay owed for the additional 1/3 of pay for COVID-19 Leave hours taken after July 22, 2020. This will require an agency-by-agency review and determination. Total amounts owed to these employees, by each state agency that employees them, is anticipated to be relatively low; the administrative work required to determine who is or is not eligible for repayment and then execute payroll transactions necessary to effectuate this repayment is anticipated to be a somewhat involved process for affected state agencies.

Long-Term Fiscal Considerations

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Local Fiscal Impact

Units of local government may incur similar costs identified in MMB's and other agencies' fiscal notes. The extent of these costs may vary depending on the current paid COVID-19 leave policies of these local governments.

References/Sources

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