HB 776

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 776 (Delegate Kelly)
Appropriations

State Personnel - Parental Leave

This bill provides up to 30 days of paid parental leave to an employee in the State Personnel Management System (SPMS) who is responsible for the care and nurturing of a child to care for a child immediately following the birth or adoption of the employee's child. However, if two employees are responsible for the care and nurturing of a child, both employees combined may use up to 40 days (subject to the same day 30-day limitation for any one employee) of paid parental leave to care for the child. An employee must have approval from the employee's appointing authority before using such parental leave, and an employee may not receive payment unless the employee provides his or her immediate supervisor information required by guidelines issued by the Secretary of Budget and Management on the federal Family and Medical Leave Act of 1993 (FMLA). The Secretary must adopt regulations governing parental leave, including regulations that establish conditions and procedures for requesting and approving parental leave.

Fiscal Summary

State Effect: Expenditures increase (all funds) due to employees within SPMS taking paid parental leave. *For illustrative purposes only*, if 500 SPMS employees with average wages of $26.73 per hour take 30 days of parental leave, expenditures increase by $3.2 million. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An employee within SPMS who is responsible for the care and nurturing of a child may use, without certification of illness or disability, up to 30 days of accrued sick leave to care for the child immediately following the birth or adoption of the employee's child. However, if two employees are responsible for the care and nurturing of a child, both employees combined may use up to 40 days (subject to the same 30-day limitation for any one employee) of accrued sick leave to care for the child. An employee who uses accrued sick leave may not receive payment unless the employee provides the employee's immediate supervisor information required by guidelines issued by the Secretary of Budget and Management on FMLA.

State employees in SPMS currently accrue paid sick leave at the rate of 1.5 hours for every 26 hours worked in nonovertime status. Employees earn a maximum of 15 days or 120 hours of sick leave each year. Employees may use paid sick leave for the following:

- for illness or disability of the employee;
- for death, illness, or disability of the employee's immediate family member;
- following the birth of the employee's child;
- when a child is placed with the employee for adoption; or
- for a medical appointment of the employee or the employee's immediate family member.

Additionally, State employees in SPMS receive personal and annual paid leave days. They receive six personal leave days annually to be used for any reason after giving notice to the supervisor. Annual leave accruals are based on the employee's years of service, which ranges from a maximum of 80 hours of annual leave each year for employees with less than 5 years of service to a maximum of 200 hours of annual leave each year for employees with at least 20 years of service. Annual leave may be used for any reason, upon supervisor approval.

Background: FMLA requires covered employers to provide eligible employees with up to 12 work weeks of unpaid leave during any 12-month period under the following conditions:

- the birth and care of an employee's newborn child;
- the adoption or placement of a child with an employee for foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition;
- medical leave when the employee is unable to work due to a serious health condition; or

- any qualifying circumstance arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty."

Generally, an FMLA-covered employer is an entity engaged in commerce that employs at least 50 employees. Public agencies and public or private elementary or secondary schools are considered to be covered employers regardless of the number of individuals they employ.

An eligible employee is an individual employed by a covered employer who has been employed for at least 12 months; however, these may be nonconsecutive months. Among other criteria, the individual must have been employed for at least 1,250 hours of service during the 12-month period.

State Expenditures: The bill does not specify an accrual rate for parental leave or otherwise limit how often it may be taken, so the Department of Legislative Services (DLS) assumes all SPMS employees are entitled to take 30 days of parental leave for any birth or adoption. Additionally, DLS assumes that since accrued sick leave may be used only *immediately* following the birth or adoption of the employee's child, an employee is not entitled to use both paid parental leave and accrued sick leave immediately following the birth or adoption of the employee's child. Thus, SPMS employees who would have otherwise used their accrued sick leave to care for a child are able to save their sick leave to use for other approved purposes.

The average wage of an employee within SPMS is $26.73 per hour, so expenditures increase on average by $6,415 for each employee that takes 30 days of paid parental leave. It is unknown how many employees will take paid parental leave. *For illustrative purposes only*, if 500 SPMS employees with (just over 1%) average wages of $26.73 per hour take 30 days of parental leave, expenditures increase by $3.2 million, based on the assumption specified above.

Additional Information

Prior Introductions: None.

Cross File: SB 687 (Senator Benson, *et al.*) - Finance.

Information Source(s): Department of Health and Mental Hygiene, Department of Budget and Management, Department of Legislative Services

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