FISCAL IMPACT OF PROPOSED LEGISLATION **Measure: HB 3398 - 2**

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:
Delays implementation requirements for paid family and medical leave program.

Government Unit(s) Affected:
Oregon Employment Department (OED), Department of Revenue (DOR), Statewide

Summary of Fiscal Impact:
Costs related to the measure may require budgetary action - See analysis.

Analysis:
HB 3398 amends statutes related the Paid Family and Medical Leave Insurance (PFMLI) program, established by the Oregon Legislature during the 2019 Legislative Session in HB 2005 (2019).

The -2 amendment resolves conflicts with HB 3178 (2021), and does not change the original fiscal determination.

HB 3398 adjusts the timeline for implementation of the PMFLI program by making the following changes which take effect on the 91st day after Sine Die:

- Moving the date by which the Oregon Employment Department (OED) must adopt rules necessary to establish the PFMLI program from September 1, 2021 to September 1, 2022.
- Moving the beginning date by which OED must conduct a review of expenses incurred by the department in reviewing equivalent plans from January 1, 2023 to January 1, 2024. The review includes an analysis of the adequacy of the application fee and administrative expenses related to requests for review of determinations regarding equivalent plan approvals or denials.
- Changing dates by which the OED must submit reports to interim committees of the Legislative Assembly summarizing the department's progress toward implementing the PFMLI program. The date of the second report must be submitted no later than September 1, 2022 instead of September 1, 2021; subsequent reports are due beginning on July 1, 2024 (instead of July 1, 2023) and once during each of the following three consecutive biennia.
- Moving the date by which OED must reimburse the General Fund from January 1, 2023 to June 30, 2023.
- Moving the date by which OED must establish the PFMLI program such that eligible employees and employers may begin making contributions to the PFMLI program from January 1, 2022 to January 1, 2023.
- Moving the operative date for PFMLI contributions-related provisions from January 1, 2022 to January 1, 2023.
- Moving the operative date for PFMLI benefits-related provisions from January 1, 2023 to September 3, 2023.
- Moving the operative date for notifying employers prior to commencing leave due to PFMLI from January 1, 2023 to August 3, 2023. Moving the time frame for notice to employers allows the employer to still receive the written notice from the employee 30 days before PFMLI is taken, which begins September 3, 2023.
- Moving the operative date for the length of family leave from January 1, 2023 to September 3, 2023.

This delay in implementation is necessary as ODE continues to respond to and recover from the COVID19 pandemic, and the fiscal impact of this delayed implementation is reflected in the Employment Department's 2021-23 proposed budget in policy option packages 104 and 105.

The change in timeline modifies OED's position needs for the 2021-23 biennium, including postponing the start dates of some positions to the 2023-25 biennium and delaying the start dates of some positions within 2021-23 biennium. The delayed implementation will also mean information technology vendor contracts and Office of Administrative Hearings costs will be pushed out to the 2023-25 biennium. Overall, delayed implementation will result in a reduction of $66,505,075 Total Funds [$40,813,540 General Fund + $25,691,535 Other Funds] 22 positions (77.63 FTE) to the Employment Department's 2021-23 biennium budget.

With PFMLI contributions beginning January 1, 2023 and PFMLI benefit payments beginning eight months later, September 3, 2023, the Employment Department still anticipates repaying the General Fund loan by the end of the 21-23 biennium, before June 30, 2023.

Delayed implementation is anticipated to have minimal fiscal impact on the Department of Revenue and on other state agencies, local government, Tribal government, public universities, and community colleges.