


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: December 20, 2016

SUBJECT: Fiscal Impact Statement – Council Members Evans and Cheh
Amendment in the Nature of a Substitute

REFERENCE: Bill 21-415, “Universal Paid Leave Amendment Act of 2016”; Draft
Amendment as provided to the Office of Revenue Analysis on
December 19, 2016

Conclusion

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the amendment. The amendment will cost \$49.7 million in FY 2018 and \$152 million over four year financial plan. The cost includes a \$200 per employee tax credit for businesses with 70 employees or fewer, and enforcement of an employer paid family leave mandate including: tax administration, employer compliance, employee and employer complaints and adjudication, and processing of hardship claims for businesses with 50 or fewer employees.

Background

The amendment requires all District businesses to provide covered employees paid leave for the same qualifying events and same number of weeks as the underlying bill, beginning January 2018. The weekly benefit is equal to the amount provided by the underlying bill, not to exceed \$1,000 per week.

The amendment provides a \$200 refundable tax credit per employee, per year, for all businesses in the District with 70 or fewer employees. The amendment also establishes a \$5 million economic hardship fund to provide financial assistance to businesses with fewer than 50 employees who cannot meet the requirements of the act without undue financial hardship. The bill requires that a business demonstrate to the satisfaction of the Mayor that the requirements of the act caused or will cause undue financial hardship.

The amendment requires a covered employer to certify and annually file with the Office of the Chief Financial Officer regarding the number of employees who received leave for a qualified event during the year, and the amount of leave and amount paid per employee. It also requires the OCFO,

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the District of Columbia Auditor, the Office of Human Rights, the Department of Small and Local Business Development to perform an audit after 18 months of the program and annually thereafter.

The amendment requires the Mayor to establish grievance procedures for employees or employers claiming a violation of the act. Employees and employers will have the right to appeal before an administrative law judge at the Office of Administrative Hearings.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the amendment. The amendment will cost \$49.7 million in FY 2018 and \$152 million over four year financial plan. The cost includes a \$200 per employee tax credit for businesses with 70 employees or fewer, and enforcement of an employer paid family leave mandate including: tax administration, employer compliance, employee and employer complaints and adjudication, and processing of hardship claims for businesses with 50 or fewer employees.

The total number of employees across all establishments with 70 or fewer employees totals approximately 200,000.¹ All businesses with 70 or fewer employees will be eligible to receive a \$200 credit per year per employee, regardless of their annual tax liability. Businesses that do not currently file tax returns for franchise or unincorporated business taxes will be required to file to receive the per employee tax credit. The total estimated cost of the credit is \$40 million in the first year, based on the estimated 200,000 total employees. Regulations should clarify how many businesses can claim a credit for a single employee and how long an employee should remain employed before an employer can claim the credit.

The bill requires that the Mayor establish an economic hardship grant program, establish rules and standards for the program, review applications from employers and determine how and when \$5,000,000 from a special fund will be distributed to offset the hardship. According to business dynamics statistics of the U.S. Census Bureau, approximately 9 to 10 percent of businesses close due to financial hardship. So to estimate the workload of the grant program, we assume that 10 percent of the 36,498 businesses with fewer than 50 employees will make a request for hardship assistance. This means we expect 3,649 claims for assistance to be processed annually. We assume, as we did with the underlying bill, that one FTE will be required for every 500 claims, plus supervisory positions. Based on this we assume a unit of approximately 9 FTEs will be required to manage the grant program. Depending on the criteria that will be used to determine whether hardship is established, and what documentation will be required to be provided by the businesses, the workload estimate could vary.

In total, 37 positions are required to administer and enforce the requirements of the amendment. In addition to the 9 FTEs for the economic hardship grant unit, the Office of Tax and Revenue will require 10 employees to process the additional returns that will be filed, and to assess and audit the returns to ensure compliance with the law. The Department of Employment Services will require 5 FTEs to monitor compliance of employers with the mandate. The Office of Human Rights will require 5 FTEs to develop receive and process claims by employees of employer violations. As with the underlying bill, the Office of Administrative Hearings will require 8 administrative law judges to

¹ Estimate based on date from Bureau of Labor Statistics, Quarterly Census of Employment and Wages, Office of Labor Market Research and Information, Q1 2016.

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manage the appeals allowed under procedures to be established by the Mayor. The judges will hear cases from any covered employee or employer in the District claiming a violation of the act.

Lastly, the amendment designates \$20,039,000 that has been placed in a reserve designated for universal paid leave to offset the cost of the amendment, but the funds have not yet been appropriated in a formal budget process and, therefore, is not available for use.

Universal Paid Leave Act of 2016, Bill 21-415					
Fiscal Impact of Amendment Proposed by Council Members Evans and Cheh					
	FY 2017	FY 2018	FY 2019	FY 2020	Total
Per employee tax credit of \$200 for businesses with 70 or fewer employees	\$0	\$40,000,000	\$40,800,000	\$41,616,000	\$122,416,000
Office of Administrative Hearings Administrative Law Judges ^(a)	\$0	\$1,667,535	\$1,714,653	\$1,763,183	\$5,145,371
Office of Tax and Revenue Personnel for Processing and Auditing of Credit ^(b)	\$0	\$870,280	\$892,758	\$915,911	\$2,678,949
DOES Employer Compliance ^(c)	\$0	\$541,823	\$551,459	\$561,288	\$1,654,570
Office of Human Rights Administrative Complaint Process ^(d)	\$0	\$662,720	\$674,774	\$687,070	\$2,024,564
Hardship Grant Administration ^(e)	\$0	\$1,035,027	\$1,066,078	\$1,098,060	\$3,199,166
Hardship Grant Fund	\$0	\$5,000,000	\$5,000,000	\$5,000,000	\$15,000,000
Total Fiscal Impact	\$0	\$49,777,385	\$50,699,722	\$51,641,512	\$152,118,619

Table Notes:

a) Includes 8 Administrative Law Judges at a collective bargaining established salary of \$160,000 judge.

b) Includes 10 FTEs at Grade 11/6.

c) Includes 3 Grade 10/5 FTEs, 1 Grade 12/5 FTE, and 1 Grade 14 midpoint FTE.

d) Includes 2 grade 11/5 FTEs, 3 Grade 12/5 FTEs, and 1 Grade 14 midpoint FTE.

e) Includes 3 Grade 10/5 FTEs, 3 Grade 13/5 FTEs, 1 Grade 6/5, FTE, and 2 Grade 14/5 FTEs.