

LFC Requester:	
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original x **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 17 Jan 2024

Bill No: SB3

Sponsor: Sen. Stewart; Rep.
Chandler

Short Title: Paid Family Medical Leave
Act

Agency Name and Code Number: 305 – New Mexico
Department of Justice

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

SB3 (the “Bill”) creates a new program for paid family, medical, safety, and exigency leave that is administered through the New Mexico Department of Workforce Solutions (the “Department”). The new program raises revenue through a tax collected through employee paychecks to public and private employees within the state. The revenue is remitted to a new fund—the “paid family and medical leave fund”—which is appropriated to the Department to distribute leave compensation to eligible employees. The Bill limits such paid leave to 12 weeks at a time within an application year. Under the Bill, employers are prohibited from retaliating against any employee who uses such leave. The Bill further creates a grievance procedure for complainants to file administrative actions with the Department for alleged violations of the provisions of the law. The Bill permits employers to offer privately administered paid leave programs so long as these programs’ benefits are equivalent or greater than those guaranteed under the Bill. Finally, the Bill preempts city, counties, and other municipalities or political subdivisions from enacting programs with comparable provisions to those created under the Bill.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Limitations for Grievances: The timeline for filing an administrative action with the Department alleging violation of the provisions of the Bill is an extremely short timeline (such that the grievance procedure will likely be impracticable). The Bill limits the timeframe for which an aggrieved party may file a complaint to within thirty business days the complainant becoming aware of the alleged violation. Comparable administrative grievance procedures for violations of state employment law currently exist in statute. *See, e.g.*, the New Mexico Human Rights Act, NMSA 1978, § 28-1-10(A) (requiring a complainant to file a grievance with the Human Rights Commission within three hundred days of the alleged wrongful act). If the Bill is implemented with this comparatively brief timeframe for initiating grievances, it is likely that many valid complaints will go unheard.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The Bill is an identical duplicate of HB6, its House counterpart.

The Bill relates to, but does not seemingly conflict with, a subject covered by the Promoting Financial Independence for Victims of Domestic Abuse Act, NMSA 1978, § 50-4A-1 through -8. The Bill's safe leave provisions permit employees to apply for leave compensation through the Department where the employee or a family member of the employee is the victim of domestic violence, stalking, sexual assault, or abuse. The Promoting Financial Independence for Victims of Domestic Abuse Act requires employers to permit victims of domestic abuse to take leave from work consistent with the employer's policies. Further, employers are prohibited from retaliating against any employee that lawfully requests and exercises the right to take leave under such circumstances.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The status quo at the state level will remain unchanged. This status quo permits counties and municipalities to enact their own paid family leave policies, should they elect to do so.

AMENDMENTS

See Significant Issues, supra.