LFC Requester:	

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

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 1/25/24
Bill No: SB 3

Sponsor: Stewart, Chandler
Short Title: Paid Family Medical Leave Act

Agency Name and Code Number: SIC 337
Person Writing Wollmann
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24-FY27	FY28+		
	$6,000.0	Recurring	Paid Family Medical Leave Fund (NEW) to General Fund

(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: HB11

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB3 seeks to create the Paid Family & Medical Leave Act which would allow eligible employees to be paid a percentage of their wages while on leave due to qualifying family or medical events. The bill creates a Paid Family and Medical Leave Fund (PFMLF), to be invested by the State Investment Officer, while the program itself will be overseen by the Workforce Solutions Department.

The existing analysis for this bill appears very thorough. SIC has some narrow concerns with one sentence of the bill and will focus on that concern for the purpose of this agency analysis.

FISCAL IMPLICATIONS

Section 3 of the bill outlines how the PFMLF will be administered, including how the fund will be invested, specifically, Section 3, line 24-25:

“Money in the fund shall be invested by the state investment officer.”

That’s it, there is no additional detail or stipulations as to what guidelines, standard of care, distribution/spending policy, timing, or other details that are typically included in statute for similar investment/reserve or endowment funds managed by the Council.

It is understood from the rest of the bill that some of these details cannot yet be determined due to the program Rules that the bill directs the Workforce Solutions Department (WSD) and its advisors to implement, as well as required actuarial work related to premiums that will be collected to make the fund self-sustaining and the related benefits it will deliver.

However, the non-traditional structure of the PFMLF presents potential challenges in relation to its investment by the State Investment Officer, which is why SIC would raise the following concerns:

- Investments placed with the State Investment Officer and overseen by the State Investment Council are statutorily intended to be “long-term”, with investment horizons of at minimum, at least one-year. Alternatively, any investments that may need to be withdrawn in shorter timeframes should be placed with the State Treasurer’s Office, which focuses on short-term (less than 1 year) or slightly longer “medium-term” investment horizons of a few years.

- Standard endowment funds like the Early Childhood Education & Care Fund, the Rural Libraries Endowment Fund, the Opioid Settlement Restricted Fund and others – all have specific (though often differing) spending/distribution policies which usually dictate when and how much liquidity a fund will need to satisfy its programs. The PFMLF does not have a standardized spending policy, but instead appears to require funds be available on short notice for draw down as needed at the call of WSD with the approval of the Department of Finance & Administration. That presents an asset allocation challenge for longer-focused SIC investment options.

- Relatedly, standard distribution policies help determine the level of risk each fund should take to realistically achieve long-term growth targets and inform what types of assets it should be invested in to meet those goals.

- Most statutory funds indicate a basic level of risk/return sought based on each fund's distribution structure, or at least provide statutory guardrails like "this fund will be managed in accordance with the Uniform Prudent Investor Act", or "this fund is to be invested in a manner similar to the Land Grant Permanent Fund."

While there are always risks when investing capital, there are certainly degrees of risk that can be adjusted based on each fund's long-term goals, and it is important that the levels of risk taken are in alignment with not only the expected rewards, but also with the timing-needs associated with those investments' beneficiaries. Private market investments made by SIC are attractive to long-term (or permanent) funds as they seek to increase your risk/return metric in exchange for the accompanying liquidity restrictions. This "illiquidity premium" paid by private markets is appropriate for some funds, but not all, as some funds – like the PFMLF – may have high liquidity needs due to more frequent than annual withdrawals in undetermined amounts.

The inconsistency of the withdrawal structure has the potential to create specific problems in a longer-term asset allocation due to a misalignment with illiquid investment strategies. Private-market investments (private equity, real estate, credit funds) have typical lock-up periods of between a few years to a decade or more. If the PFMLF was invested in such assets with a illiquidity premium, getting cash out of those allocations can be an expensive proposition, forcing sale of assets at a discount/loss on secondary markets and should be avoided. Even for liquid assets like stocks and bonds, it should be recognized that there are not-insignificant additional costs involved with frequent forced buying and selling that might be needed to meet short-notice distribution requirements.

The primary difference between the State Treasurer's Office (STO) and SIC is that STO's focus and expertise is on short-term fixed income investments while SIC can invest from a greater menu of investment strategies, including private credit, public equities, private equity, real estate, real assets and more.

Given its short-term focus and expertise, arguably, the STO may be better suited to manage the PFMLF, versus SIC's longer-term horizon portfolios. In addition, SIC's more-liquid investment options – primarily stocks and bonds – have the potential to elevate risk of greater losses in the short-term, and if they occur at a time when the markets are falling and the PFMLF needs to be drawn down significantly, losses that would have likely recovered in the long-term, are locked in and will be realized due to short-term needs.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

Should there at some point following Rules creation and actuarial determinations that establish a standardized distribution policy for the PFMLF, and if it is subsequently decided that the fund has sufficient capacity and long-term investment reserves which can afford greater volatility in efforts to achieve greater investment returns, the SIC would potentially be available to work with the WSD through the SIC's client investment programs that already serve 26 various state agencies, cities, counties and other political subdivisions of the state. Such agreements do not need additional statutory authority but can be achieved through Joint Powers Agreements that are approved by the SIC following legal review and authorization by the Department of Finance and Administration.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS