



AGENDA ITEM SUMMARY

City Council

STAFF

Teresa Roche, Human Resources Executive
Kelley Vodden, Compensation, Benefits and Wellness Director
Ryan Malarky, Legal

SUBJECT

Public Hearing and Resolution 2022-113 To Decline the City of Fort Collins's Participation in the Colorado Paid Family and Medical Leave Insurance Program.

EXECUTIVE SUMMARY

The purpose of this item is to obtain authorization for the City to decline participation in the Colorado Family and Medical Leave Insurance ("FAMLI") program, which is a state-run insurance program that will provide paid family and medical leave to eligible employees of participating employers.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

During the 2020 general election, Colorado's voters approved Proposition 118, which led to the creation of the FAMLI program. The FAMLI program will provide paid family and medical leave to employees of participating employers under a state-run insurance program. The coverage does not begin until January 1, 2024, and participating employers are required to collect premiums from employees and remit the funds to the state starting January 2023.

Unlike private employers, local government employers may decline to participate in the FAMLI program. State regulations require that a notice of such a vote declining participation be delivered to the Division of Family Leave and Medical Leave Insurance ("FAMLI Division") within the Colorado Department of Labor and Employment ("CDLE"). City staff intends to provide that notice by December 31, 2022, before payroll withholding requirements begin in January 2023.

Local government employers that do not decline participation in the FAMLI program must begin withholding and remitting employer and employee premiums to the FAMLI Division beginning in January 2023. Initial premiums have been set at 0.9% of wages per employee, with 0.45% paid by the employer and 0.45% paid by the employee. Beginning January 1, 2025, the FAMLI Division may increase the premiums paid by employers and employees to a maximum of 1.2% of wages per employee.

In general, FAMLI insurance benefits provide eligible employees with the right to take a maximum of twelve weeks of paid family and medical leave, except four additional weeks are available for a serious health condition related to pregnancy or childbirth. The leave may be used for the following purposes:

1. To care for a serious medical condition;
2. To care for a family member with a serious medical condition;
3. To care for a new child during the first year;
4. When an employee or their family member needs to take safe leave because they are a victim of domestic violence, stalking, or sexual assault or abuse; and
5. When an employee needs to take qualifying exigency leave because an employee's family member is on or being called to active-duty military service.

The paid leave benefit is calculated based on the individual employee's income ranging from 37% to 90% of normal weekly wages, with a cap of \$1,100 per week.

Qualifying employees are entitled to job protection during FAMLI leave, which ensures that upon return from leave, employees are entitled to the same position or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. During such leave, employers are required to maintain the employee's health benefits, but the employee must continue to pay the employee's portion of the health premiums.

Currently, the City provides employees with different leave benefits that include the continuation of pay for circumstances covered under FAMLI. The City's paid leaves include:

1. Short term disability leave
2. Parental leave
3. Sick leave
4. Emergency leave
5. Military leave
6. Vacation.

City employees are afforded job-protected leave under the federal Family and Medical Leave Act ("FMLA") and the Colorado Healthy Family and Workplaces Act ("HFWA"), which run concurrently with the applicable paid leave listed above. A comparison chart of FAMLI and City-sponsored plans is included as an attachment.

If the City declines participation in the FAMLI program, City employees may still choose to participate. Employees would be required to pay their portion of the premium to the FAMLI Division without administrative assistance from the City. Employees who want to participate can do so with no greater personal cost and without imposing a cost to the City and other employees who do not want to participate. To participate, employees can opt-in by following the requirements of Section 8-13.3-514 of the Colorado Revised Statutes and FAMLI regulations, including filing a notice of election with the FAMLI Division. An employee that chooses to participate must do so for a minimum of three years.

Additionally, the City could elect to participate in the program at a future date. FAMLI requires local governments to renew its decision to decline participation at leave every eight years.

Finally, the City periodically evaluates benefit programs to ensure that leaves are competitive, in alignment with the market, and meet federal, state, and local regulatory requirements. The City will conduct a comprehensive review of leave benefits in 2023, considering additional Caregiver leaves that may enhance our current suite of leave offerings.

CITY FINANCIAL IMPACTS

Should Council choose to **not** decline participation in the FAMLI program, costs for the City portion of the premium are estimated to be \$735,000 in 2023 and \$744,000 in 2024, in addition to administrative costs of complying with FAMLI.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Not applicable.

PUBLIC OUTREACH

Not applicable.

ATTACHMENTS

1. Resolution for Consideration
2. Comparison Chart of FAML I and City-sponsored Plans
3. Notice to Employees of Council Vote