



**FRUITA**  
COLORADO

## AGENDA ITEM COVER SHEET

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**TO:** FRUITA CITY COUNCIL AND MAYOR

**FROM:** ODETTE BRACH, HUMAN RESOURCES DIRECTOR

**DATE:** JUNE 20, 2022

**AGENDA TEXT:** RESOLUTION 2022-15 - A request to opt out of the Family and Medical Leave Insurance Program (FAMLI)

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### BACKGROUND

The purpose of this agenda item is to provide the City Council with an overview and request City Council approve the Resolution to opt out of the Family and Medical Leave Insurance (FAMLI) program, which will be enacted by the State of Colorado in January of 2023. In November 2020, Colorado voters approved Proposition 118, allowing for the implementation of a state-run Paid FAMLI program.

FAMLI will be administered through the Colorado Department of Labor and Employment, Division of Family and Medical Leave Insurance. Premiums will be collected (including Employer and Employee shares) starting January 1, 2023, and benefits will be available starting January 1, 2024.

FAMLI provides covered employees with 12 weeks of paid leave to take care of themselves or a family member during life events like injury, serious illness, or pregnancy. An additional 4 weeks are available to employees who experience pregnancy or childbirth complications. Leave can be taken all at one time or intermittently.

FAMLI also provides job protection for employees were employed for at least 180 days before the protected leave occurs. This means that an employer must return the employee to the same or an equivalent position with equivalent benefits and pay following the leave. Employers must maintain healthcare benefits during the leave, but the employee would have to continue to pay their share of the cost. Accrual of seniority and other benefits are not protected.

FAMLI is a separate program from the paid sick leave requirements of the Healthy Families and Workplaces Act and the Federal Family and Medical Leave Act (FMLA)

The Colorado FAMLI program is not mandatory for local governments. However, if a municipality chooses to participate in the program, insurance premiums must be submitted to the State on behalf of their employees through a payroll tax split evenly between employers and employees with the tax initially set at 0.9%, and eventually capped at 1.2%, of the employee's annual wages. If a municipality does not participate, the employee can still participate individually and receive the same benefits and would be solely responsible for the 50% of the premium, Employees who choose to participate individually when the municipality opts out would be required to remit their premium share to the

FAMLI Division, unless the municipality chooses to handle the payment by deducting the premium from the employee's pay. Employees who do not want to participate must still pay a premium if the municipality does not decline participation.

A municipality may opt out and avoid the employer portion of premiums by a vote of a governing body. Declination takes effect 180 days after the vote so employees can elect to individually participate in the FAMLI program if they choose.

If a municipality does not opt out now, it must wait for three years to decline participation. If a municipality opts out now, it can opt in any future year. It must renew its decision to decline participation at least every eight years. The municipality can vote to opt out of our FAMLI anytime during 2022 but is required to give FAMLI notice of their decision to opt out by no later than January 1, 2023.

If Council opts out, staff recommends also declining to withhold/remit employee premiums for those who elect coverage, to lessen the City's potential financial liabilities and administrative requirements.

As required prior to the vote, all employees were given notice, in writing and by e-mail, on June 13, 2022, about the vote and the opportunity to provide comment, if desired, at the June 20, 2022 Council Meeting. In addition, employees were informed they may also provide written comments to City Council prior to the meeting, which will be considered part of the public comment.

For additional information, attached to this cover sheet is a policy brief on FAMLI published by the Colorado Municipal League and the Power Point presentation on FAMLI. Also attached is Resolution 2022-15.

## **FISCAL IMPACT**

The cost of the FAMLI program participation will increase the City's budget by at least 0.45% of its employees' wages annually and potentially more. Using current year budget numbers, it is estimated that the cost to the City of Fruita would be \$30,000 to participate in the program for all full-time and part-time employees. FAMLI also includes additional administrative work for finance and human resources staff and raises City liability concerns. Employees who want the paid benefits of FAMLI can participate individually at no greater personal cost and without imposing a cost on the City and other employees who do not want to participate.

## **OPTIONS AVAILABLE TO COUNCIL**

1. Approve Resolution 2022-15 - Approving the request to opt out of the Family and Medical Leave Insurance program.
2. No Action – The City will automatically be enrolled as a participant in the Family and Medical Leave Insurance program.

## **RECOMMENDATION**

It is the recommendation of the Fruita City Staff that the Council by motion:

1. **ADOPT RESOLUTION 2022-15 - APPROVING THE REQUEST TO OPT OUT OF THE FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM.**