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What is the process for policy analysis? – proposed state or federal legislation

**PAID FAMILY LEAVE: 22-0881**

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## **Paid Family Leave Options**

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**Option 1** – Enroll in  
State’s new FAMLI plan

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**Option 2** – Decline  
participation in FAMLI and  
create replacement plan

# Option 1: Considerations for FAMLI

- State run, voter approved
- Local governments may opt-in or decline participation and offer an alternative.
- If the City takes no action:
  - Premiums begin in 2023 with benefits beginning 2024.
  - Automatic enrollment for three years from date benefits begin.
    - Cannot opt-out until 2027.
  - All or nothing – cannot decline coverage certain groups and opt-in others (i.e., bargained vs. non-bargained or elected vs. non-elected)

# Option 1: FAMLI Benefit and Premium

## Weekly Benefit:

- 90% of 50% of the State Average Weekly Wage (SAWW)  
  
PLUS
- 50% of the employee's wage above the SAWW to \$1,100 max

## Premium:

- 0.9% of employee's wages, split between employee and city.\*
- Applies to all wages to social security max, currently \$147,000.
- 2023 cost: \$9.8 million, split evenly
- 2024 cost: \$9.8 million, split evenly

\*Can be raised in 2025 to as high as 1.2%

# Option 1: Sample Weekly Benefits FAMLI

Annual Salary	Weekly Salary	FAMLI weekly Benefit**	Annual City FAMLI premium	Annual Employee Premium
\$40,000	\$769	\$612 (80%)	\$180	\$180
\$62,400*	\$1,200	\$826 (69%)	\$281	\$281
\$75,000^	\$1,442	\$947 (66%)	\$337	\$337
\$91,000^^	\$1,750	\$1,100 (63%)	\$410	\$410
\$135,000	\$2,596	\$1,100 (42%)	\$608	\$608

^Average civilian salary

\*includes a wide range of non-exempt employees, trash collection, park ranger, probation, DIA security

\*\*\$1,100 is the maximum benefit through FAMLI

^^Any employee making more than this will see a diminishing benefit and higher premium = ~8,000 or 62% employees

## Option 2: Replacement Plan

- Begin 1/1/23 – one year sooner than FAMLI
- Provide 320 hour paid leave bank
- Called a Care Bank
- Available only for employees on Family Medical Leave (will also be available for new employees with 6 months of service)
- Yearly allocation with no carryover or monetary value
- Would be in addition to current PTO/Vacation/Sick and STD
- Can be used prior to exhausting existing leave banks.

# Option 2: Considerations

- Only local governments can decline participation in FAMLI
  - Deadline to decline is before 1/1/23
- If the City does decline participation now
  - May opt-in later “at the beginning of the annual cycle relevant to the local government’s budgeting cycle.”\*
  - “...Such a vote will follow the local government’s ... procedures for other formal votes of the governing body. ...”\*
  - Employees can opt-in individually (enrollment would be instead of the City Care bank) – City is not responsible for its portion of the premium.

\*REGULATIONS CONCERNING LOCAL GOVERNMENT PARTICIPATION WITH THE PAID FAMILY MEDICAL LEAVE PROGRAM 7 CCR 1107-2

# New Proposal Plan Comparison

Percent of 12-week (480 hour) FML leave covered

Type of Leave	Option 2	Option 1 –State’s FAMILI Plan				
	8-week bank + STD	\$40,000 no STD	\$62,400 no STD	\$75,000 no STD	\$91,000 no STD	\$135,000 no STD
Vaginal Birth	90%	80%	70%	66%	63%	43%
C-section	100%	80%	70%	66%	63%	43%
Personal Illness	100%	80%	70%	66%	63%	43%
Care for Family	67%*	80%	70%	66%	63%	43%

\*If 36 hours of PTO earned while an employee is on leave is included here, the replacement increases to 74%.

# Benefit Comparison

Topic	Option 1 - State FAML I	Option 2 – Care Bank
<b>Benefit Begin</b>	January 1, 2024	January 1, 2023
<b>Cost to Employee</b>	.45% of all earnings starting 1/1/23	No cost
<b>Cost to City</b>	1. STD premium 2. Replacement cost 3. \$4.8 million annual FAML I premium	1. STD premium 2. Replacement cost
<b>Savings to City</b>	Any wages replaced by FAML I	Annual FAML I premium
<b>Pay Replacement</b>	Up to \$1,100/week	8 weeks paid via care bank plus PTO/STD
<b>Reasons for leave</b>	Care for self or family or Safe leave for domestic violence, stalking, sexual assault or abuse issues	
<b>Eligible Family</b>	Spouse, child, parents, family like relationship, etc.	

\*If employees use FAML I first, can take 12 weeks of leave for non-FMLA reasons, then still qualify for 12 weeks of FMLA leave.

# Request

- OHR requests City Council Decline Participation in the FAMLI plan
- If declined:
  - a. OHR will begin process to create 8-week (320 hour) Care bank through Career Service Rules effective 1/1/2023.
  - b. BMO will determine costs of Care bank in 2023 budgets.
  - c. OHR/CAO/BMO will negotiate with bargaining groups
  - d. OHR will communicate with employees who wish to opt-in on their own.

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# Appendix

# Current Benefit - Family Medical Leave (FML)

- Job protection only, unpaid
- Employees are entitled to 12 weeks (480 hours) of unpaid job-protected leave after one (1) year of service and 1250 hours to care for self or a family member.
- Employees are expected to use their accumulated sick/vacation or PTO if they would like to be paid during this time.
- Salary may be off-set by short-term disability (STD) if leave is for own serious health condition.

# What Employees have now

- Employees hired on or after 1/1/2010 receive PTO
  - Maximum accrual is 400 hours
- Employees hired prior to 1/1/2010 receive sick/vacation
  - Max sick accrual is 960 hours
  - Max vacation accrual is 336 hours
- Short-term Disability
  - Benefit is only available for the employee's own health condition, begins after 14 days of disability and pays 70% of salary
  - Monthly premiums paid by the City for PTO employees
  - Available for purchase by sick/vacation employees
  - Benefit can pay up to 6 months, even if terminated

# Current State – Civilian post 2010

Time needed in hours for full paid FML leave  
(70% STD = 28 hours or 40-hour work week)

Type of Leave	Week 1 & 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12
Vaginal^ (368)	80 PTO	<b>28 STD 12 PTO</b>	<b>28 STD 12 PTO</b>	<b>28 STD 12 PTO</b>	<b>28 STD 12 PTO</b>	40 PTO					
C-section^ (312)	80 PTO	<b>28 STD 12 PTO</b>	40 PTO	40 PTO	40 PTO	40 PTO					
Personal Illness* (200)	80 PTO	<b>28 STD 12 PTO</b>									
Care for Family (480)	80 PTO	40 PTO	40 PTO	40 PTO	40 PTO	40 PTO	40 PTO	40 PTO	40 PTO	40 PTO	40 PTO

^ STD pays six weeks of benefits for a natural birth and eight weeks for a c-section but have a 2-week waiting period.

\* STD could pay UP TO 26 weeks, or however long the employee is out on doctor's orders

# Option 1: FAMLI Replacement Amount

FAMLI salary replacement	Number of employees	Percentage of employees	
90%	848	7%	30% of employees
81-89%	623	5%	
71-80%	2437	19%	
61-70%	4341	34%	70% of employees
51-60%	2184	17%	
<50%	2474	19%	

# Option 2: Care Bank – Reasons for leave

- Caring for a child during the first year after a birth, adoption or foster care placement
- Caring for a family member\* with a serious health condition
- Employee's own serious health condition
- Safe leave for domestic violence, stalking, sexual assault or abuse issues

\* familial relationship affidavit required if not related by family

# Option 2: Care Bank – Eligible Family Members

- Children (including biological, adopted, foster, stepchildren, legal wards, and children of a domestic partner)
- Parents (including biological, adoptive, foster, stepparents, legal guardians, and parents of the employee's spouse or domestic partner)
- Spouses and domestic partners
- Grandparents and grandchildren\*
- Familial relationship with affidavit if not related family

\*the City is awaiting guidance from the State FAMILI's office for required documentation.