

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

---

DATE: January 31, 2014

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller *Martin J. Miller*  
Chief Legislative Analyst

Assignment No: 14-01-0030  
Council File No. 14-0002-S2

SUBJECT: S. 1810 (Gillibrand) and H.R. 3712 (DeLauro) - Family and Medical Insurance Leave Act (FAMILY Act)

CLA RECOMMENDATION: Adopt the attached Resolution to include in the City's 2013-14 Federal Legislative Program SUPPORT for S. 1810 (Gillibrand) and H.R. 3712 (DeLauro), the Family and Medical Insurance Leave Act (FAMILY Act).

## SUMMARY

On January 10, 2014, the Resolution (Martinez / O'Farrell) was introduced stating the following:

- The federal Family and Medical Leave Act (FMLA) became law in 1993 and guarantees that qualifying workers can take up to 12 weeks of unpaid leave in one year to care for newborns, seriously ill family members or their own serious health needs;
- The Family and Medical Insurance Leave Act (FAMILY Act) has been introduced in Congress to complement the FMLA and would establish a program to allow workers to receive up to 12 weeks of partially paid leave; and
- A similar program already exists in California and research shows that paid leave increases employee morale, productivity and job performance, and helps to reduce the high rate of employee turnover in low-wage jobs.

The Resolution states support of the FAMILY Act because individuals should not lose a paycheck or their job to care for a family member, and most advanced nations provide some form of paid leave.

## BACKGROUND

In 1993, President Clinton signed the Family and Medical Leave Act (FMLA) which provides eligible employees 12 weeks of unpaid job protected leave from work. Subsequently, the State of California amended its existing family leave program, the California Family Rights Act (CFRA), to conform with the Federal FMLA to provide qualifying workers time off from work to:

- Address their own serious health needs;
- Care for seriously ill immediate family members (spouse, parent, child); and
- Give birth, care for a newborn, or care for a newly adopted/foster child.

In 2002, California established the Paid Family Leave Act (PFL). Provisions of the PFL:

- Provide six weeks of partial income replacement (approximately 55% of salary) for workers who pay into the State Disability Insurance (SDI) Program;
- Set the worker contribution rate which has been approximately 1% of salary over the past five years; and
- Extend leave to bond with a newborn, or newly adopted/fostered child, or to care for a parent, child, spouse, or registered domestic partner with a serious health condition.



The City's family leave and sick leave benefits are detailed in the Los Angeles Administrative Code (Sections 4.127 and 4.129) for non-represented employees and in memorandums of understanding for represented employees. Employees eligible for leave can receive compensation during their time off by using banked sick hours, vacation hours, and other compensatory time off hours. All part-time workers who work less than 1,040 hours in a service year (intermittent employees) are not eligible for these City benefits (Section 4.110 Los Angeles Administrative Code).

In December 2013, Senator Gillibrand (NY) and Representative Rose DeLauro (CT) introduced S. 1810 and H.R. 3712, the FAMILY Act, to create a national paid family and medical leave insurance program. The program includes the following provisions:

- Provides workers up to 12 weeks of partial salary when employees take time off from work to address serious health needs of their family or themselves, pregnancy, childbirth, adoption or military related caregiving;
- Enables workers to earn 66% of their monthly wages, up to a capped amount;
- Extends eligibility to all companies no matter their size, which would include younger, part-time, lower-wage and contingent workers;
- Funded through both an employee and employer contribution of two-tenths of one percent of the employee's salary;
- The new federal program would not preempt or supercede existing State or local paid family and medical leave benefits that are similar to those provided by the FAMILY Act; and
- Establishes the Office of Paid Family and Medical Leave within the Social Security Administration. The author's office states that the bill establishes the Office of Paid Family and Medical Leave to further regulate the program.

Although the legislation does not preempt or supercede an existing local agency program providing similar benefits, the City is not exempt from providing program requirements. Intermittent City employees would be eligible for paid family leave under the bill. The FAMILY Act establishes funding for the program through a contribution from the employee and the employer of two tenths of one percent of the employee's salary. The Controller's Office advises there are 6,075 active intermittent employees in the City with an average gross earning of approximately \$12,000 in 2013.

Supporters of these two measures state the following:

- Only 12 percent of workers nationwide have access to paid family leave through their employers, and fewer than 40 percent have access to short-term disability insurance provided by their employer to use for their own illnesses;
- Without paid family and medical leave, many workers are unable to take time away from work to care for newborn children, an ill or aging parent or relative, or themselves;
- According to Department of Labor data, in 2011, nearly half of workers who qualified for leave under FMLA were unable to take leave because they could not afford to take time off;
- Workers who lack paid family leave face lost wages or even job loss when they miss work because of their own illness or to care for an ill child or parent;
- More than four times as many worksites covered by FMLA reported positive effects on employee productivity, absenteeism, turnover, career advancement and morale, as well as the business' profitability as reported negative effects in the Department of Labor's 2012 survey on the FMLA; and
- Research reveals that six years after California's paid leave was implemented in the State the program benefitted both workers and businesses.

Over 400 organizations have stated support for the FAMILY Act, including the following: National Partnership for Women and Families, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), American Federation of State, County and Municipal Employees (AFSCME), American Psychological Association, and Human Rights Watch.

BILL STATUS

S. 1810 (Gillibrand)

12/12/13

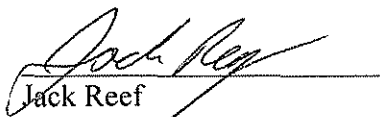
Introduced. Read twice and referred to the Committee on Finance.

H.R. 3712 (DeLauro)

12/12/13

Introduced. Referred to the House Committee on Ways and Means.

GFM:MF:PS:JR  
Attachment: Resolution

  
Jack Reef  
Analyst

14-002-52

JAN 10 2014

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the federal Family and Medical Leave Act (FMLA) became law in 1993 and guarantees that qualifying workers can take up to 12 weeks of unpaid leave in one year to care for seriously ill family members, their own serious health needs, or newborns; and

WHEREAS, since its enactment, the National Partnership for Women & Families, an original sponsor, states that the program has been used more than 100 million times by workers without jeopardizing their jobs; and

WHEREAS, former President Clinton recently stated that he receives more expressions of gratitude for signing the FMLA than any other piece of legislation during his Presidency; and

WHEREAS, Los Angeles County, including the City of Los Angeles, has the highest birthrate in the State, with approximately 30% of California, and in 2012 there were 121, 300 babies born locally; and

WHEREAS, both the County of Los Angeles and the City of Los Angeles were found to have the lowest awareness of California's Paid Family Leave program. Public awareness has been limited with at least half of all workers surveyed experiencing a qualifying life event, but unaware of this benefit.

WHEREAS, a woman's employment status is a frequent barrier to the initiation and duration of exclusive breastfeeding and the American Academy of Pediatrics states that breastfeeding and infant nutrition should be considered a public health issue and not a lifestyle choice; and

WHEREAS, California's Paid Family Leave program was found to double the median duration of breastfeeding and the United States Surgeon General encourages policymakers to take action in support of breastfeeding, including ensuring that all employed mothers have access to paid maternity leave; and

WHEREAS, to strengthen the FMLA, the Family And Medical Insurance Leave Act (FAMILY Act), S 1810 (Gillibrand) and H.R 3712 (DeLauro), has been introduced in Congress and would establish a program to allow workers to receive up to 12 weeks of partial paid leave (approximately 2/3 of their salary); and

WHEREAS, no one should have to choose between their job and taking care of the health needs of their family or themselves, and with passage of the FAMILY Act they would not have to; and

WHEREAS, a similar program already exists in California and research shows that paid leave increases employee morale, productivity and job performance, and helps to reduce the high rate of employee turnover in low-wage jobs; and

WHEREAS, the City has take action to support paid leave legislation since 2008; and

WHEREAS, the City of Los Angeles should support the FAMILY Act because people should not have to lose a paycheck or their job to care for a family member, and most advanced nations provide some form of paid family leave which has helped, and has not hurt their economies;

NOW THEREFORE BE IT RESOLVED, with concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-014 Federal Legislative Program SUPPORT for S. 1810 (Gillibrand) and H.R. 3712 (DeLauro), The Family And Medical Insurance Leave Act (FAMILY Act), which would provide workers across the country partial income when taking leave from work.

  
JAN 10 2014

PRESENTED BY: Nury Martinez  
NURY MARTINEZ  
Councilwoman, 6<sup>th</sup> District

SECONDED BY: Theresa O'Connell

ORIGINAL