

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 6, 2009**

**TO:** Honorable Joe Deshotel, Chair, House Committee on Business & Industry

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1057** by McClendon (Relating to family care leave for certain employees; providing a civil penalty.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Labor Code relating to family care leave for certain employees; providing a civil penalty. According to the Texas Workforce Commission (TWC), the U.S. Department of Labor has performed its customary conformity review and has informed TWC that the bill conflicts with federal unemployment compensation law.

According to information by the U.S. Department of Labor, this bill would make the employers of the state ineligible for the 5.4 percent tax credit under the Federal Unemployment Tax Act (FUTA), changing the effective FUTA tax rate from 0.8 percent to 6.2 percent of the federal wages ceiling. Currently, there are approximately 10.2 million covered employees in Texas, and the 0.8 percent FUTA Tax Rate with Credit (i.e., 6.2% minus 5.4% credit) X \$7,000 Federal UI tax wage ceiling = \$56 (Current Per-Employee Federal UI FUTA annual tax). The loss of the 5.4 percent FUTA Tax Credit accompanying the enactment of non-conforming state legislation would equate to Texas employers paying the full 6.2 percent FUTA Tax Rate, totaling \$434 per employee. The resulting increase per employee would be equivalent to  $\$434 - \$56 = \$378$ .  $\$378 \times 10.2$  million covered employees in Texas = \$3.8 billion per year, and totaling \$19.3 billion over the FY 2010-14 period. Based on the analysis of the Texas Workforce Commission, duties and responsibilities associated with implementing the provisions of the bill for the agency could be accomplished by utilizing existing resources.

According to the Office of the Attorney General (OAG) the bill would provide a new cause of action for employees against employers; however, the OAG anticipates any additional work resulting from the passage of this bill could be reasonably absorbed with current agency resources.

**Local Government Impact**

No significant fiscal implication for Local Workforce Development Boards is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 320 Texas Workforce Commission

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