
**Labor & Workforce Development
Committee**

HB 2238

Brief Description: Addressing paid vacation leave.

Sponsors: Representatives Tarleton, Moscoso, S. Hunt, Freeman, Ormsby, Pollet, Reykdal, Bergquist, Moeller, Appleton, Goodman and Walkinshaw.

Brief Summary of Bill

- Requires accrual of paid vacation leave for employees who work an average of 20 or more hours per week for employers with 25 or more employees.

Hearing Date: 1/24/14

Staff: Joan Elgee (786-7106).

Background:

State and federal laws address leave from employment.

Under the federal Family and Medical Leave Act (FMLA), eligible employees are entitled to up to 12 weeks of unpaid leave in a 12-month period for specified reasons. The state Family Leave Act is very similar to the FMLA. Paid family leave for the birth or placement of a child is delayed until funding and an implementation date are provided. Under the state family care law, if employees are entitled to sick leave or other paid time off, employers must allow employees to use their choice of leave to care for certain family members.

Summary of Bill:

Provisions are created under which employees are entitled to accrue paid vacation leave. "Vacation leave" means leave for vacation, holiday, or for any other purpose.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The leave accrues as follows:

- No leave accrues for the first six months of employment.
- 40 hours accrues for the subsequent 12-month period.
- 60 hours accrues for the subsequent 12-month period.
- 80 hours accrues for each subsequent 12-month period.
- After five years of employment, 120 hours accrue for each 12 months of employment.

Employees covered are persons who work an average of 20 or more hours per week. Employers covered are all private and public employers with 25 or more employees (in 20 or more workweeks/year).

Leave accrues on a pro rata basis at each pay period. Leave also accrues on a pro rata basis for employees who work part-time. An employer with a paid time off or other combined or universal paid leave policy complies if the policy specifically identifies as vacation leave at least as much leave as required under the provisions.

An employee's right to use accrued leave at a particular time, including requests for and approval of leave, is determined by employer policy. An employer must compensate an employee using vacation leave at the same rate of pay and with the same benefits, including health care benefits, as if the employee had not taken leave. Employers must provide current information to each employee on the accrued amount of leave. Any system may be used, including an online system.

The leave requirement is a minimum and is not intended to discourage or prohibit more generous policies or to diminish an employer's obligation to comply with any more generous leave. The bill does not preempt any requirements, including local ordinances, that provide for greater leave or other employee protections. The leave requirements do not apply if expressly waived in a collective bargaining agreement. However, individual employees may not waive their rights.

Upon complaint, the Director of the Department of Labor and Industries (Department) may investigate and issue a notice of infraction if a violation occurred. The Director may order an employer to credit an employee with accrued leave and may also impose a civil penalty of \$500 for a first violation and \$1,000 for a subsequent violation, as well as require compensation to the Department for its costs.

Employers must give notice to employees about paid vacation leave by displaying a poster or giving notice to each employee. The notice must be in English and any language spoken by at least 5 percent of the employer's workforce. The Department's next reprinting of employment posters must include paid vacation leave.

The Department has rule-making authority to implement the requirements.

The Washington State Institute for Public Policy (WSIPP) must evaluate the impact of paid vacation leave on the state's economy and the health and well-being of employees. The study must include a survey of employers and employees. In addition, the WSIPP must study the feasibility of the Department or another agency offering a commercial, nonproprietary online system for tracking vacation leave. The WSIPP must submit a report to the Legislature by December 1, 2016, on its evaluation of paid vacation leave and recommendations on an online system.

Appropriation: None.

Fiscal Note: Requested on January 15, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.