S-3669.2

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**SENATE BILL 5911**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Cleveland, Keiser, Billig, Conway, Das, Lovelett, Lovick, Nguyen, Randall, Saldaña, Stanford, and Trudeau

AN ACT Relating to providing hazard pay retention bonuses to certain health care employees; creating new sections; providing an expiration date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that Washington health care workers have suffered direct effects from the COVID-19 pandemic. Due to the unprecedented stress of providing health care during the COVID-19 pandemic, many health care facilities are experiencing acute staffing shortages among certain health care workforces. The legislature finds surges in infections have strained hospital capacity necessitating gubernatorial action to delay nonurgent health services and deploying the national guard to assist emergency departments.

(2) Therefore, the legislature intends to provide a financial incentive to certain health care employees working in emergency departments, intensive care units, or urgent care facilities to retain their service during the COVID-19 pandemic.

(3) The legislature intends to utilize federal funding from the coronavirus state fiscal recovery fund of the American rescue plan act of 2021 to provide this financial assistance to certain COVID-19 impacted health care workers to ensure a robust health care workforce to serve Washingtonians.

NEW SECTION. **Sec.**  (1)(a) A covered employee is eligible for a one-time hazard pay retention bonus if the employee worked 240 hours for a covered employer in the 12 calendar weeks immediately preceding June 26, 2022.

(b) The hazard pay retention bonus must be paid in addition to all other compensation due including, but not limited to, salaries, wages, overtime, commissions, piece rates, paid rest and meal breaks, paid leave, and reimbursement for covered employer expenses. Hazard pay may not be provided to volunteers.

(c) The hazard pay retention bonus must not be considered part of the covered employee's regular rate of pay or compensation, including serving as a basis for determining overtime eligibility.

(2) By July 22, 2022, a covered employer must provide to the department, in a manner approved by the department, the following information for each covered employee it employs:

(a) Legal full name;

(b) Total hours worked during the 12 calendar weeks immediately preceding June 26, 2022; and

(c) Mailing address.

(3) To determine the amount of the hazard pay retention bonus, the department must divide the sum available for expenditure in the health care employee hazard pay account created in section 3 of this act, minus the sum of the department's administrative costs plus $50,000, by the total number of unique covered employees. In no event may the hazard pay retention bonus equate to more than $13 per hour for the covered employee.

(4) As soon as practicable, but no later than September 16, 2022, the department must issue a hazard pay retention bonus in the amount determined under subsection (3) of this section to a covered employee eligible under subsection (1) of this section. Each eligible covered employee may only receive one hazard pay retention bonus, regardless of total number of hours worked or number of employers for whom they worked.

(5) It is unlawful for a covered employer to discharge, lay off, or reduce any compensation or hours worked by a covered employee to prevent, in whole or in part, the covered employee from receiving a hazard pay retention bonus.

(6) A covered employee denied eligibility under subsection (1) of this section may appeal to the department by providing an affidavit and supporting documentation demonstrating their eligibility under subsection (1) of this section. The department must review submitted documentation and follow up with the covered employee and covered employer. If the department determines the covered employee is eligible, it must issue a hazard pay retention bonus to the covered employee in the amount determined under subsection (3) of this section.

(7) The department may enforce violations of this act consistent with RCW 49.48.040.

(8) Hazard pay retention bonuses under this section are only available until moneys contained in the health care employee hazard pay account are exhausted.

(9) The department may adopt additional eligibility criteria if such criteria are necessary to comply with federal funding requirements.

(10) For the purposes of this section:

(a) "Calendar week" means the period of seven consecutive days beginning at 12:01 a.m. on Sunday and ending at 11:59 p.m. on the following Saturday.

(b) "Covered employee" means any of the following employees who practice in COVID units including, but not limited to, emergency departments, intensive care units, or hospital-based urgent care clinics as a:

(i) Medical assistant-certified, as defined in RCW 18.360.010;

(ii) Medical assistant-interim, as credentialed under, and with a scope of practice described in, rule by the department of health;

(iii) Medical assistant-phlebotomist, as defined in RCW 18.360.010;

(iv) Medical assistant-registered, as defined in RCW 18.360.010;

(v) Licensed practical nurse, as defined in RCW 18.79.030, with a scope of practice as described in RCW 18.79.020 and 18.79.060;

(vi) Registered nurse, as defined in RCW 18.79.030, with a scope of practice as described in RCW 18.79.040, 18.79.240, and 18.79.260;

(vii) Nursing assistant, as defined in RCW 18.88A.020; and

(viii) Respiratory care practitioner, as defined in RCW 18.89.020, with a scope of practice as described in RCW 18.89.040.

(c) "Covered employer" means an employer that employs a covered employee.

(d) "Department" means the department of labor and industries.

(e) "Employ" or "employs" means to engage, suffer, or permit to work.

NEW SECTION. **Sec.**  The health care employee hazard pay account is created in the custody of the state treasurer. Revenues to the account shall consist of appropriations and transfers by the legislature and all other funding directed for deposit into the account. Expenditures from the account may be used only for providing hazard pay retention bonuses and associated administrative costs of the department. Only the director of the department of labor and industries or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Any amounts remaining in the account upon expiration of this act must be transferred into the state general fund.

NEW SECTION. **Sec.**  The department of labor and industries may adopt rules to implement this act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  This act expires June 30, 2023.

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