

E2SSB 5069 - H COMM AMD

By Committee on Commerce & Labor

1 Strike everything after the enacting clause and insert the
2 following:

3 NEW SECTION. **Sec. 1.** The legislature finds that, although
4 family leave laws have assisted individuals to balance the demands
5 of the workplace with their family responsibilities, more needs to
6 be done to achieve the goals of family care, work force stability,
7 and economic security. In particular, the legislature finds that
8 many individuals do not have access to family leave laws, and those
9 who do may not be in a financial position to take family leave that
10 is unpaid, and that employer-paid benefits, including family leave
11 and disability benefits, meet only a relatively small part of this
12 need. The legislature declares it to be in the public interest to
13 establish a program that: (1) Allows parents to bond with a
14 newborn or newly placed child, and workers to care for seriously
15 ill family members; (2) is in addition to those programs offered by
16 employers whether voluntary or required by federal or state family
17 leave laws; (3) provides limited income support for a reasonable
18 period while an individual is away from work on family leave; and
19 (4) reduces the impact on state income support programs by
20 increasing an individual's ability to provide care giving services
21 for family members while maintaining an employment relationship.

22 NEW SECTION. **Sec. 2.** The definitions in this section apply
23 throughout this chapter unless the context clearly requires
24 otherwise.

25 (1) "Application year" means the twelve-month period beginning
26 on the first day of the calendar week in which an individual files
27 an application for family leave insurance benefits and, thereafter,
28 the twelve-month period beginning with the first day of the

1 calendar week in which the individual next files an application for
2 family leave insurance benefits after the expiration of the
3 individual's last preceding application year.

4 (2) "Calendar quarter" has the meaning provided in RCW
5 50.04.050.

6 (3) "Child" means a person who is:

7 (a) A biological, adopted, or foster child, a stepchild, a
8 legal ward, or a child of a person standing in loco parentis; and

9 (b)(i) Under eighteen years of age; or

10 (ii) Eighteen years of age or older and incapable of self-care
11 because of a mental or physical disability, whether permanent or
12 temporary.

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

14 (5) "Director" means the director of the department of labor
15 and industries.

16 (6) "Employer" means: (a) An employer as defined in RCW
17 50.04.080 who employs fifty or more employees for each working day
18 during each of twenty or more calendar workweeks in the current or
19 preceding year; (b) an employer who has elected coverage under this
20 chapter pursuant to section 12 of this act; and (c) the state and
21 its political subdivisions.

22 (7) "Employment" has the meaning provided in RCW 50.04.100.

23 (8) "Family leave" means leave from employment with an
24 employer:

25 (a) To care for a newborn child or adopted or foster child of
26 the individual or the individual's spouse when leave is completed
27 within twelve months after the birth or the placement for adoption
28 or foster care, as applicable; or

29 (b) To care for the individual's family member who has a
30 serious health condition.

31 (9) "Family leave insurance benefits" means the benefits
32 payable under sections 6 and 7 of this act.

33 (10) "Family member" means a child, spouse, or the parent of
34 the individual or individual's spouse.

35 (11) "Health care provider" means: (a) A person licensed as a
36 physician under chapter 18.71 RCW; (b) an osteopathic physician and
37 surgeon under chapter 18.57 RCW; or (c) any other person determined
38 by the director to be capable of providing health care services.

1 (12) "Parent" means a biological or adoptive parent, a
2 stepparent, or an individual who stood in loco parentis to an
3 individual or an individual's spouse when the individual or
4 individual's spouse was a child.

5 (13) "Premium" or "premiums" means payments required by this
6 chapter to be made to the department for the family leave insurance
7 account under section 20 of this act.

8 (14) "Qualifying year" means the first four of the last five
9 completed calendar quarters or the last four completed calendar
10 quarters immediately preceding the first day of the individual's
11 application year.

12 (15) "Regularly working" means the average number of hours per
13 work week that an individual worked in the two quarters of the
14 individual's qualifying year in which total wages were highest.

15 (16) "Serious health condition" means:

16 (a) An illness, injury, impairment, or physical or mental
17 condition that involves:

18 (i) A period of incapacity or treatment connected with
19 inpatient care, such as an overnight stay, in a hospital, hospice,
20 or residential medical care facility, and a period of incapacity or
21 subsequent treatment or recovery in connection with such inpatient
22 care; or

23 (ii) Continuing treatment by or under the supervision of a
24 health care provider or a provider of health care services and
25 which includes a period of incapacity, such as an inability to
26 work, attend school, or perform other regular daily activities; and

27 (b) The period of such incapacity or continuing treatment is
28 expected to exceed the waiting period specified in section 6 of
29 this act over the course of the application year.

30 NEW SECTION. **Sec. 3.** (1) The department shall establish and
31 administer a family leave insurance program and pay family leave
32 insurance benefits as specified in this chapter.

33 (2) The department shall establish procedures and forms for
34 filing claims for benefits under this chapter. The department
35 shall notify the employer within five business days of a claim
36 being filed under section 4 of this act.

37 (3) The department may require that a claim for benefits under
38 this chapter be supported by a certification issued by the health

1 care provider providing health care to the individual's family
2 member.

3 (4) The employment security department shall disclose relevant
4 information and records, and the department shall use information
5 sharing and integration technology to facilitate such disclosure,
6 so long as an individual consents to such disclosure as required
7 under section 4(4) of this act.

8 (5) Information contained in the files and records pertaining
9 to an individual under this chapter are confidential and not open
10 to public inspection, other than to public employees in the
11 performance of their official duties. However, the individual or
12 an authorized representative of an individual may review the
13 records or receive specific information from the records on the
14 presentation of the signed authorization of the individual. An
15 employer or the employer's duly authorized representative may
16 review the records of an individual employed by the employer in
17 connection with a pending claim. At the department's discretion,
18 other persons may review records when such persons are rendering
19 assistance to the department at any stage of the proceedings on any
20 matter pertaining to the administration of this chapter.

21 (6) The department shall develop and implement an outreach
22 program to ensure that individuals who may be eligible to receive
23 family leave insurance benefits under this chapter are made aware
24 of these benefits. Outreach information shall explain, in an easy
25 to understand format, eligibility requirements, the claims process,
26 weekly benefit amounts, maximum benefits payable, notice and
27 medical certification requirements, reinstatement and
28 nondiscrimination rights, confidentiality, and the relationship
29 between benefits under this chapter and other leave rights and
30 benefits. Outreach information shall be available in English and
31 other primary languages as defined in RCW 74.04.025.

32 NEW SECTION. **Sec. 4.** Beginning September 3, 2006, family
33 leave insurance benefits are payable to an individual during a
34 period in which the individual is on family leave if the
35 individual:

36 (1) Files a claim for benefits in each week in which the
37 individual is on family leave, and as required by rules adopted by
38 the director;

1 (2) Has been employed in employment for at least six hundred
2 eighty hours and in at least six months during the individual's
3 qualifying year;

4 (3) Has been employed in employment for at least six calendar
5 workweeks by the employer from whom family leave is to be taken;

6 (4) Establishes an application year. An application year may
7 not be established if the qualifying year includes hours worked
8 before establishment of a previous application year;

9 (5) Consents to the disclosure of information or records deemed
10 private and confidential under chapter 50.13 RCW. Initial
11 disclosure of this information and these records by the employment
12 security department to the department is solely for purposes
13 related to the administration of this chapter. Further disclosure
14 of this information or these records is subject to sections 3(4)
15 and 13(2)(b) of this act;

16 (6) Discloses whether or not he or she owes child support
17 obligations as defined in RCW 50.40.050;

18 (7) Documents that he or she has provided the employer from
19 whom family leave is to be taken with written notice of the
20 individual's intention to take family leave as follows:

21 (a) If the necessity for family leave defined in section
22 2(8)(a) of this act was foreseeable based on an expected birth or
23 placement, notice was given at least thirty days before the family
24 leave was to begin, stating the anticipated starting date and
25 ending date of the family leave. However, if the date of birth or
26 placement required family leave to begin in less than thirty days
27 or if the date of birth or placement required family leave to be
28 changed or extended, as much notice as practicable was given;

29 (b) If the necessity for family leave defined in section
30 2(8)(b) of this act was foreseeable based on planned medical
31 treatment:

32 (i) Notice was given at least thirty days before the family
33 leave was to begin, stating the anticipated starting date and
34 ending date of the family leave. However, if the date of the
35 treatment required family leave to begin in less than thirty days
36 or if the date of the treatment required family leave to be changed
37 or extended, as much notice as practicable was given; and

38 (ii) The individual made reasonable efforts to schedule the
39 treatment so as not to disrupt unduly the operations of the

1 employer, subject to the approval of the health care provider of
2 the family member, as applicable; and

3 (c) If the necessity for family leave defined in section 2(8)
4 (a) or (b) of this act is not foreseeable, the employee must give
5 notice to the employer of the need for leave as soon as practicable
6 under the facts and circumstances of the case, stating the
7 anticipated starting and ending date of the family leave. It is
8 expected that an employee will give notice to the employer within
9 no more than one or two working days of learning of the need for
10 leave, except in the extraordinary circumstances where such notice
11 is not feasible; and

12 (8) Is not receiving benefits under the unemployment
13 compensation or crime victims' compensation laws of this state, any
14 other state, or the United States.

15 NEW SECTION. **Sec. 5.** An individual is disqualified from
16 family leave insurance benefits beginning with the first day of the
17 calendar week, and continuing for the next fifty-two consecutive
18 weeks, in which the individual willfully made a false statement or
19 misrepresentation regarding a material fact, or willfully failed to
20 report a material fact, to obtain benefits under this chapter.

21 NEW SECTION. **Sec. 6.** (1) The maximum number of weeks during
22 which family leave insurance benefits are payable in an application
23 year is five weeks. However, benefits are not payable during a
24 waiting period consisting of the first five work days of family
25 leave taken in an application year with respect to a particular
26 type of family leave, whether the first five work days of family
27 leave are employer paid or unpaid.

28 (2)(a) The first payment of benefits must be made to an
29 individual within two weeks after the claim is filed or the family
30 leave began, whichever is later, and subsequent payments must be
31 made semimonthly thereafter.

32 (b) The payment of benefits under this chapter shall not be
33 considered a binding determination of the obligations of the
34 department under this chapter. The acceptance of compensation by
35 the individual shall likewise not be considered a binding
36 determination of his or her rights under this chapter. Whenever
37 any payment of benefits under this chapter has been made and timely

1 appeal therefrom has been made where the final decision is that the
2 payment was improper, the individual shall repay it and recoupment
3 may be made from any future payment due to the individual on any
4 claim under this chapter. The director may exercise his or her
5 discretion to waive, in whole or in part, the amount of any such
6 payments where the recovery would be against equity and good
7 conscience.

8 (c) If an individual dies before he or she receives a payment
9 of benefits, the payment shall be made to the surviving spouse, or
10 the child or children if there is no surviving spouse. If there is
11 no surviving spouse, and no child or children, the payment shall be
12 made by the department and distributed consistent with the terms of
13 the decedent's will or, if the decedent dies intestate, consistent
14 with the terms of RCW 11.04.015.

15 (3) Benefits are not payable and waiting period credits are not
16 earned under this chapter for any weeks in which compensation is
17 paid or payable to the individual under Title 50 RCW or similar law
18 of another state or the United States.

19 NEW SECTION. **Sec. 7.** The amount of family leave insurance
20 benefits shall be determined as follows:

21 (1) The weekly benefit shall be two hundred fifty dollars per
22 week for an individual who at the time of beginning family leave
23 was regularly working forty hours or more per week.

24 (2) If an individual who at the time of beginning family leave
25 was regularly working forty hours or more per week is on family
26 leave for less than forty hours but at least eight hours in a week,
27 the individual's weekly benefit shall be .025 times the maximum
28 weekly benefit times the number of hours of family leave taken in
29 the week. Benefits are not payable for less than eight hours of
30 family leave taken in a week.

31 (3) For an individual who at the time of beginning family leave
32 was regularly working less than forty hours per week, the
33 department shall calculate a prorated schedule for a weekly benefit
34 amount and a minimum number of hours of family leave that must be
35 taken in a week for benefits to be payable, with the prorated
36 schedule based on the amounts and the calculations specified under
37 subsections (1) and (2) of this section.

1 (4) If an individual discloses that he or she owes child
2 support obligations under section 4 of this act and the department
3 determines that the individual is eligible for benefits, the
4 department shall notify the applicable state or local child support
5 enforcement agency and deduct and withhold an amount from benefits
6 in a manner consistent with RCW 50.40.050.

7 (5) If the internal revenue service determines that family
8 leave insurance benefits under this chapter are subject to federal
9 income tax and an individual elects to have federal income tax
10 deducted and withheld from benefits, the department shall deduct
11 and withhold the amount specified in the federal internal revenue
12 code in a manner consistent with section 8 of this act.

13 NEW SECTION. **Sec. 8.** (1) If the internal revenue service
14 determines that family leave insurance benefits under this chapter
15 are subject to federal income tax, the department must advise an
16 individual filing a new claim for family leave insurance benefits,
17 at the time of filing such claim, that:

18 (a) The internal revenue service has determined that benefits
19 are subject to federal income tax;

20 (b) Requirements exist pertaining to estimated tax payments;

21 (c) The individual may elect to have federal income tax
22 deducted and withheld from the individual's payment of benefits at
23 the amount specified in the federal internal revenue code; and

24 (d) The individual is permitted to change a previously elected
25 withholding status.

26 (2) Amounts deducted and withheld from benefits must remain in
27 the family leave insurance account until transferred to the federal
28 taxing authority as a payment of income tax.

29 (3) The director shall follow all procedures specified by the
30 federal internal revenue service pertaining to the deducting and
31 withholding of income tax.

32 NEW SECTION. **Sec. 9.** If family leave insurance benefits are
33 paid erroneously or as a result of willful misrepresentation, or if
34 a claim for family leave benefits is rejected after benefits are
35 paid, RCW 51.32.240 shall apply, except that appeals are governed
36 by section 14 of this act, penalties are paid into the family leave

1 insurance account, and the department shall seek repayment of
2 benefits from the recipient.

3 NEW SECTION. **Sec. 10.** During a period in which an individual
4 receives family leave insurance benefits under this chapter, the
5 individual is entitled to family leave and, at the established
6 ending date of leave, to be reinstated in his or her position with
7 the employer from whom leave was taken subject to the following:

8 (1) An employer may require that family leave for which an
9 individual is receiving or received family leave insurance benefits
10 under this chapter be taken concurrently with leave under the
11 federal family and medical leave act of 1993 (Act Feb. 5, 1993,
12 P.L. 103-3, 107 Stat. 6), chapter 49.78 RCW, or other applicable
13 federal, state, or local law. If an employer requires that family
14 leave for which an individual is receiving or received benefits
15 under this chapter be taken concurrently with leave under the
16 federal family and medical leave act of 1993, chapter 49.78 RCW, or
17 other applicable federal, state, or local law, the employer must
18 give all individuals in his or her employ written notice of the
19 requirement.

20 (2)(a) If the individual is entitled, on return from family
21 leave under this chapter, to reinstatement under the federal family
22 and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107
23 Stat. 6), chapter 49.78 RCW, or other applicable federal, state, or
24 local law, other than this chapter, reinstatement is required as
25 provided under the applicable law most favorable to the individual.

26 (b)(i) If the individual is not entitled to reinstatement on
27 return from family leave under (a) of this subsection, the
28 individual is entitled, upon return from leave under this chapter,
29 to be reinstated:

30 (A) In the same position held by the individual when the leave
31 commenced;

32 (B) In a position with equivalent benefits and pay at a
33 workplace within twenty miles of the individual's workplace when
34 leave commenced; or

35 (C) If the employer's circumstances have so changed that the
36 individual cannot be reinstated in the same position, or a position
37 of equivalent pay and benefits, the individual shall be reinstated

1 in any other position which is vacant and for which the individual
2 is qualified.

3 (ii) The entitlement under this subsection (2)(b) is subject to
4 bona fide changes in compensation or work duties, and does not
5 apply if:

6 (A) The individual's position is eliminated by a bona fide
7 restructuring or reduction-in-force;

8 (B) The individual's workplace is permanently or temporarily
9 shut down for at least thirty days;

10 (C) The individual's workplace is moved to a location at least
11 sixty miles from the location of the workplace when leave
12 commenced;

13 (D) The individual on family leave takes another job; or

14 (E) The individual fails to return on the established ending
15 date of leave.

16 (3) An individual who has been on family leave while receiving
17 family leave insurance benefits under this chapter shall not lose
18 any employment benefit, including seniority or pension rights,
19 accrued before the date that family leave commenced. However, this
20 chapter does not entitle an individual to accrue employment
21 benefits during a period of family leave, or to a right, benefit,
22 or position of employment other than a right, benefit, or position
23 to which the individual would have been entitled had the individual
24 not taken family leave.

25 (4) The department shall enforce this section under RCW
26 49.78.140 through 49.78.190.

27 NEW SECTION. **Sec. 11.** (1) This chapter does not limit an
28 individual's right to leave from employment under other laws,
29 collective bargaining agreements, or employer policy, as
30 applicable, except as provided in this chapter.

31 (2) If an employer provides paid family leave through any
32 means, the individual may elect whether first to use the paid
33 family leave or to receive family leave insurance benefits under
34 this chapter. An individual may not be required to use the
35 individual's paid family leave to which the individual is otherwise
36 entitled before receiving benefits under this chapter.

1 NEW SECTION. **Sec. 12.** (1) An employer not covered by this
2 chapter, including an employer as defined in RCW 50.04.080 who
3 employs less than fifty employees for each working day during each
4 of twenty or more calendar workweeks in the current or preceding
5 year, or a self-employed person, may elect coverage under this
6 chapter for all individuals in its employ for an initial period of
7 not less than three years or a subsequent period of not less than
8 one year immediately following another period of coverage. The
9 employer or self-employed person must file a notice of election in
10 writing with the director, as required by the department. The
11 election becomes effective on the date of filing the notice.

12 (2) An employer or self-employed person who has elected
13 coverage may withdraw from coverage within thirty days after the
14 end of the three-year period of coverage, or at such other times as
15 the director may prescribe by rule, by filing written notice with
16 the director, such withdrawal to take effect not sooner than thirty
17 days after filing the notice. Within five days of filing written
18 notice of the withdrawal with the director, an employer must
19 provide written notice of the withdrawal to all individuals in the
20 employer's employ.

21 (3) The department may cancel elective coverage if the employer
22 or self-employed person fails to make required payments or reports.
23 The department may collect due and unpaid premiums and may levy an
24 additional premium for the remainder of the period of coverage.
25 The cancellation shall be effective no later than thirty days from
26 the date of the written notice advising the employer or self-
27 employed person of the cancellation. Within five days of receiving
28 written notice of the cancellation from the director, an employer
29 must provide written notice of the cancellation to all individuals
30 in the employer's employ.

31 NEW SECTION. **Sec. 13.** (1) In the form and at the times
32 specified by the director, an employer shall make reports, furnish
33 information, and remit premiums as required by section 19 of this
34 act to the department. If the employer is a temporary help company
35 that provides employees on a temporary basis to its customers, the
36 temporary help company is considered the employer for purposes of
37 this section. However, if the temporary help company fails to

1 remit the required premiums, the customer to whom the employees
2 were provided is liable for paying the premiums.

3 (2)(a) An employer must keep at his or her place of business a
4 record of employment from which the information needed by the
5 department for purposes of this chapter may be obtained. This
6 record shall at all times be open to the inspection of the director
7 or department employees designated by the director.

8 (b) Information obtained from employer records under this
9 chapter is confidential and not open to public inspection, other
10 than to public employees in the performance of their official
11 duties. However, an interested party shall be supplied with
12 information from employer records to the extent necessary for the
13 proper presentation of the case in question. An employer may
14 authorize inspection of its records by written consent.

15 (3) The requirements relating to the assessment and collection
16 of family leave insurance premiums are the same as the requirements
17 relating to the assessment and collection of industrial insurance
18 premiums under Title 51 RCW, including but not limited to
19 penalties, interest, and department lien rights and collection
20 remedies. These requirements apply to:

21 (a) An employer that fails under this chapter to make the
22 required reports, or fails to remit the full amount of the premiums
23 when due;

24 (b) An employer that willfully makes a false statement or
25 misrepresentation regarding a material fact, or willfully fails to
26 report a material fact, to avoid making the required reports or
27 remitting the full amount of the premiums when due under this
28 chapter;

29 (c) A public entity that engages in work or lets a contract for
30 work, in the manner specified in RCW 51.12.050;

31 (d) A person, firm, or corporation who lets a contract for
32 work, in the manner specified in RCW 51.12.070;

33 (e) A successor, as defined in RCW 51.08.177, in the manner
34 specified in RCW 51.16.200; and

35 (f) An officer, member, manager, or other person having control
36 or supervision of payment and/or reporting of family leave
37 insurance, or who is charged with the responsibility for the filing
38 of returns, in the manner specified in RCW 51.48.055.

1 (4) Notwithstanding subsection (3) of this section, appeals are
2 governed by section 14 of this act.

3 NEW SECTION. **Sec. 14.** (1) A person aggrieved by a decision of
4 the department under this chapter must file a notice of appeal with
5 the director, by mail or personally, within thirty days after the
6 date on which a copy of the department's decision was communicated
7 to the person. Upon receipt of the notice of appeal, the director
8 shall request the assignment of an administrative law judge in
9 accordance with chapter 34.05 RCW to conduct a hearing and issue a
10 proposed decision and order. The hearing shall be conducted in
11 accordance with chapter 34.05 RCW.

12 (2) The administrative law judge's proposed decision and order
13 shall be final and not subject to further appeal unless, within
14 thirty days after the decision is communicated to the interested
15 parties, a party petitions for review by the director. If the
16 director's review is timely requested, the director may order
17 additional evidence by the administrative law judge. On the basis
18 of the evidence before the administrative law judge and such
19 additional evidence as the director may order to be taken, the
20 director shall render a decision affirming, modifying, or setting
21 aside the administrative law judge's decision. The director's
22 decision becomes final and not subject to further appeal unless,
23 within thirty days after the decision is communicated to the
24 interested parties, a party files a petition for judicial review as
25 provided in chapter 34.05 RCW. The director is a party to any
26 judicial action involving the director's decision and shall be
27 represented in the action by the attorney general.

28 (3) If, upon administrative or judicial review, the final
29 decision of the department is reversed or modified, the
30 administrative law judge or the court, in its discretion may award
31 reasonable attorneys' fees and costs to the prevailing party.
32 Attorneys' fees and costs owed by the department, if any, are
33 payable from the family leave insurance account.

34 NEW SECTION. **Sec. 15.** An employer, temporary help company,
35 employment agency, employee organization, or other person may not
36 discharge, expel, or otherwise discriminate against a person
37 because he or she has filed or communicated to the employer an

1 intent to file a claim, a complaint, or an appeal, or has testified
2 or is about to testify, or has assisted in any proceeding under
3 this chapter, at any time, including during the waiting period
4 described in section 6 of this act and the period in which the
5 person receives family leave insurance benefits under this chapter.
6 This section shall be enforced as provided in RCW 51.48.025.

7 NEW SECTION. **Sec. 16.** (1) This chapter is not intended to
8 discourage employers from adopting or retaining policies that
9 provide additional benefits to individuals to address family leave
10 needs.

11 (2) This chapter is not to be construed to diminish an
12 employer's obligation to comply with a collective bargaining
13 agreement or an employment benefit program or plan that provides
14 greater benefits to individuals than the family leave insurance
15 benefits provided under this chapter.

16 (3) An agreement by an individual to waive his or her rights
17 under this chapter is void as against public policy.

18 (4) The benefits provided to individuals under this chapter may
19 not be diminished by a collective bargaining agreement, or an
20 employment benefit program or plan entered into or renewed after
21 the effective date of this section.

22 NEW SECTION. **Sec. 17.** This chapter does not create a
23 continuing entitlement or contractual right. The legislature
24 reserves the right to amend or repeal all or part of this chapter
25 at any time, and a benefit or other right granted under this
26 chapter exists subject to the legislature's power to amend or
27 repeal this chapter. There is no vested, private right of any kind
28 against such amendment or repeal.

29 NEW SECTION. **Sec. 18.** The director may adopt rules as
30 necessary to implement this chapter. In adopting rules, the
31 director shall maintain consistency with the rules adopted to
32 implement the federal family and medical leave act of 1993 (Act
33 Feb. 5, 1993, P.L. 103-3, 107 Stat. 6), to the extent such rules
34 are not in conflict with this chapter.

1 NEW SECTION. **Sec. 19.** (1)(a) Beginning on January 1, 2006,
2 for each individual, each employer shall submit a premium of two
3 cents per hour worked, up to a maximum of forty hours per week, to
4 the department in the manner and at such intervals as the
5 department directs for deposit in the family leave insurance
6 account. In the payment of premiums, a fractional part of a cent
7 shall be disregarded unless it amounts to one-half cent or more, in
8 which case it shall be increased to one cent.

9 (b) The director may reduce the amount of the premium from time
10 to time to ensure that the amount is the lowest rate necessary to
11 pay family leave insurance benefits and administrative costs, and
12 maintain actuarial solvency in accordance with recognized insurance
13 principles, of the family leave insurance program on a current
14 basis, and to repay loaned funds from the supplemental pension
15 fund, if any, as required in sections 21 and 22 of this act.

16 (2)(a) Except as provided in (b) of this subsection, each
17 employer may retain from the earnings of each individual an amount
18 equal to the premium assessed for the individual pursuant to
19 subsection (1) of this section.

20 (b) None of the amount assessed for the family leave insurance
21 account may be retained from the earnings of individuals covered
22 under RCW 51.16.210.

23 NEW SECTION. **Sec. 20.** The family leave insurance account is
24 created in the custody of the state treasurer. All receipts from
25 the premium imposed under section 19 of this act or the penalties
26 imposed under section 13 of this act must be deposited in the
27 account. Expenditures from the account may be used only for the
28 purposes of the family leave insurance program. Only the director
29 or the director's designee may authorize expenditures from the
30 account. The account is subject to the allotment procedures under
31 chapter 43.88 RCW, but an appropriation is not required for benefit
32 payments.

33 NEW SECTION. **Sec. 21.** If necessary to ensure that money is
34 available in the family leave insurance account for the
35 administration of the family leave insurance program and the
36 payment of benefits under this chapter, the director may, from time
37 to time, lend funds from the supplemental pension fund to the

1 family leave insurance account. These loaned funds may be expended
2 solely for the purposes of administering the program and paying
3 benefits under this chapter. The director shall repay the
4 supplemental pension fund, plus its proportionate share of earnings
5 from investment of moneys in the supplemental pension fund during
6 the loan period, from the family leave insurance account within one
7 year after the date of the initial loan and within three months
8 after the date of any subsequent loan.

9 NEW SECTION. **Sec. 22.** Beginning September 1, 2006, the
10 department shall report to the legislature by September 1 of each
11 year on projected and actual program participation, premium rates,
12 fund balances, and outreach efforts.

13 NEW SECTION. **Sec. 23.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 24.** Sections 1 through 23 of this act
18 constitute a new chapter in Title 49 RCW.-

19 Correct the title.

EFFECT:

Modifies the definition of "employer" to specify that employers are employing units that employ fifty or more employees for each working day during each of twenty or more calendar workweeks in the current or preceding year. Makes this definition applicable to an individual's eligibility to receive benefits and the employer's obligation to submit premiums.

Modifies the eligibility requirements to provide that the individual must have been employed: (1) For at least 680 hours and in at least six months during the individual's qualifying year; and (2) for at least six calendar workweeks by the employer from whom family leave is to be taken.

Provides that an eligible employee is entitled to return to the same job or an equivalent position at the end of the period in which he or she receives benefits, with certain exceptions.

Makes technical corrections.