
Commerce & Labor Committee

HB 1658

Brief Description: Establishing family and medical leave insurance.

Sponsors: Representatives Dickerson, Conway, Hankins, Appleton, Green, Hurst, Campbell, Moeller, Wood, McCoy, Hasegawa, Ormsby, Sells, Roberts, Williams, Chase, Kagi, Santos, Cody, Simpson and Darneille.

Brief Summary of Bill

- Establishes the family and medical leave insurance program.
- Provides for payment of benefits of \$250 per week for up to five weeks to individuals on family and medical leave.
- Provides for assessment of premiums of 2 cents per hour worked per individual.

Hearing Date: 2/6/07

Staff: Jill Reinmuth (786-7134).

Background:

Federal and state laws provide that certain employees are entitled to unpaid family and medical leave.

Federal Law: Under the federal Family and Medical Leave Act, eligible employees are entitled to take up to 12 weeks of unpaid leave in a 12-month period for specified family and medical reasons, and to be reinstated to their original jobs or equivalent jobs. An eligible employee is one who: (1) works for a covered employer; and (2) has worked for the same employer for at least 12 months, and for at least 1,250 hours over the previous 12 months. An eligible employee is not one who works at a location at which the employer employs less than 50 employees if the total number employed within 75 miles of that worksite is less than 50. A covered employer is a private employer that had 50 or more employees in at least 20 weeks of the current or preceding year. Leave may be taken for: (1) the birth and care of a child of the employee; (2) the placement

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of a child with the employee for adoption or foster care; (3) the care of an immediate family member who has a serious health condition; or (4) the serious health condition of the employee that makes the employee unable to work.

State Law: The state Family Leave Law generally conforms to federal law and related regulations, with certain exceptions. Upon returning from leave, eligible employees are entitled to be returned to workplaces within 20 miles of their original workplaces. Employees are also entitled to leave for sickness or temporary disability related to pregnancy or childbirth in addition to leave under federal law. Employers must allow employees to continue their health coverage at their own expense during leave.

Summary of Bill:

A new partial wage replacement program, the family and medical leave insurance program, is established. Beginning on September 1, 2008, benefits of \$250 per week for up to five weeks are paid to individuals on family and medical leave. Premiums of 2 cents per hour worked per individual are assessed. Employers are required to pay the premiums, and are authorized to retain the premiums from earnings. The program is administered by the Department of Labor and Industries (Department).

Family and Medical Leave: "Family and medical leave" means leave as defined and described in the state Family Leave Law for: (1) the birth or placement of a child; (2) a family member's serious health condition; or (3) the employee's serious health condition. "Family member" means the individual's child, spouse or domestic partner, or parent.

Eligibility: An individual is eligible to receive benefits if he or she has worked 680 hours in employment covered by unemployment compensation during either the first four of the last five calendar quarters or the last four calendar quarters completed before beginning family and medical leave. An employer or a self-employed person not mandatorily covered may elect coverage.

Other Requirements: If leave is foreseeable, the individual is required to provide notice of leave to his or her employer. If leave is to care for a family member with a serious health condition or because of the employee's serious health condition, the individual may be required by the Department to support his or her claim with medical certification.

Disqualification: An individual is disqualified from receiving benefits if the individual made false statements to obtain benefits or, with respect to leave for the employee's own serious health condition, if the condition resulted from perpetration of a gross misdemeanor or felony.

Other Leave and/or Compensation: An employer may require an individual who is receiving benefits to take the leave concurrently with leave under federal, state, or local law, with certain exceptions. An employer may not require an individual to exhaust paid leave or disability insurance before receiving benefits. An individual may elect when he or she uses paid leave. An individual may not increase the amount of leave to which the individual is entitled under the federal Family and Medical Leave Act and other laws by "tacking on" any leave to which the individual is entitled under the family and medical leave insurance program. An individual may not receive benefits while entitled to certain workers' compensation, unemployment compensation, crime victims' compensation, or disability insurance benefits.

Benefits: An individual is entitled to receive benefits for a maximum of five weeks in an application year. Initially, the amount of the weekly benefit is \$250 for an individual who was regularly working 40 or more hours per week and is on leave for the same number of hours. Benefits are prorated for an individual who was regularly working less than 40 hours per week, and for an individual who is on leave for fewer hours per week than he or she was regularly working. Each year thereafter, the amount of the weekly benefit is adjusted for inflation by the Department.

Reinstatement: An individual is entitled to be restored to a position of employment in the same manner as an employee entitled to leave under the state Family Leave Law is restored to a position of employment. However, the individual must have worked for the same employer for at least twelve months, and for at least 1,250 hours over the previous twelve months.

Premiums: Beginning on January 1, 2008, an employer is required to pay premiums, and is authorized to retain premiums from earnings. Initially the premium is 2 cents per hour worked per individual. Every year thereafter, the amount of the premium is adjusted by the Department to ensure that it is at the lowest rate necessary to pay benefits and administrative costs, and maintain actuarial solvency of the program on a current basis.

Penalties: An individual who receives benefits erroneously or as a result of willful misrepresentation must repay the benefits and may be subject to penalties. An employer that fails to make reports or pay premiums required by the Department is subject to sanctions, including penalties, interest, and collection procedures.

Confidentiality: Information in an employee's record is not subject to public disclosure, but an employer may review the records of its employee in connection with a pending claim. Information that the Department obtains from employers' records for administration of the program is not subject to public disclosure.

Discrimination: An employer or other person may not discriminate against a person for filing a claim for benefits, communicating an intent to file a claim, or testifying or assisting in a proceeding related to a family and medical leave insurance.

Dedicated Account: A dedicated account is established. Premiums and penalties are paid into and benefits are paid out of the account.
Loan: If necessary, the director of the Department may loan funds from the supplemental pension fund to the family and medical leave insurance account. The loaned funds are for the purposes of administering the family and medical leave insurance program and paying family and medical leave insurance benefits. The loan funds must be repaid, with interest, from the family and medical leave insurance account to the supplemental pension fund within one year of the loan.
Reports: Beginning on September 1, 2009, and annually thereafter, the Department must report to the Legislature on program participation, premium rates, fund balances, and outreach efforts.

Rules Authority: The bill contains provisions requiring the exercise of rule-making powers by the Department of Labor and Industries. In adopting rules, the director of the Department must maintain consistency with rules adopted to implement the federal Family and Medical Leave Act and the state Family Leave Law.

Appropriation: None.

Fiscal Note: Requested on January 25, 2007.

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