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**SENATE BILL 5959**

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

**By** Senators L. Wilson, Braun, Dozier, and J. Wilson

AN ACT Relating to the financial stability and solvency of the family and medical leave insurance account; amending RCW 44.44.040, 50A.05.070, 50A.10.030, 50A.25.070, and 69.50.540; adding a new section to chapter 50A.05 RCW; making an appropriation; and declaring an emergency.

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

**Sec.**  RCW 44.44.040 and 2019 c 363 s 22 are each amended to read as follows:

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law.

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW 41.04.276.

(7) Provide actuarial assistance to the law enforcement officers' and firefighters' plan 2 retirement board as provided in chapter 2, Laws of 2003. Reimbursement for services shall be made to the state actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of 2003.

(8) Provide actuarial assistance to the committee on advanced tuition payment pursuant to chapter 28B.95 RCW, including recommending a tuition unit price to the committee on advanced tuition payment to be used in the ensuing enrollment period. Reimbursement for services shall be made to the state actuary under RCW 39.34.130.

(9) Provide actuarial assistance to the long-term services and supports trust commission pursuant to chapter 50B.04 RCW. Reimbursement for services shall be made to the state actuary under RCW 39.34.130.

(10) Provide actuarial assistance to the employment security department related to the family and medical leave program in Title 50A RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 50A.05 RCW to read as follows:

(1) The department must coordinate with the office of the state actuary, created in RCW 44.44.010, to perform actuarial services for the department regarding the financial stability and solvency of the family and medical leave program, and specifically the family and medical leave insurance account created in RCW 50A.05.070.

(2) By December 1, 2023, and biennially until 2028, when the reporting frequency must occur every five years, the office of the state actuary must:

(a) Review the premiums and solvency surcharge formulas under RCW 50A.10.030 to determine if the rates are sufficient to maintain financial stability and program solvency, and to establish a program reserve in the family and medical leave insurance account. Additional or more frequent analysis may be performed at the request of the advisory committee, created in RCW 50A.05.030, or the legislature;

(b) Make recommendations to the advisory committee, the department, and the appropriate committees of the legislature regarding the premiums and solvency surcharge required by RCW 50A.10.030 and the financial stability and solvency of the family and medical leave insurance account, which may include recommendations or options to modify the provisions of chapter 50A.10 RCW; and

(c) Select and contract for such actuarial, technical, and other consultants as the state actuary deems necessary to perform its duties under this section.

**Sec.**  RCW 50A.05.070 and 2020 c 86 s 5 are each amended to read as follows:

(1) The family and medical leave insurance account is created in the custody of the state treasurer. All receipts from premiums imposed under this title must be deposited in the account. Revenue to the account also may include 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 the purposes of the family and medical leave program, including the office of the state actuary expenses to assist the department. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. An appropriation is required for administrative expenses, but not for benefit payments.

(2) Money deposited in the account shall remain a part of the account until expended pursuant to the requirements of this title or transferred in accordance with subsection (3) of this section. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriations act or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the family and medical leave insurance account.

(3) Money shall be transferred from the family and medical leave insurance account and deposited in the unemployment trust fund solely for the repayment of benefits not charged to employers as defined in RCW 50.29.021(3)(a)(vii). The commissioner shall direct the transfer, which must occur on or before the cut-off date as defined in RCW 50.29.010.

(4) Money transferred as provided in subsection (3) of this section for the repayment of benefits not charged to employers shall be deposited in the unemployment compensation fund and shall remain a part of the unemployment compensation fund until expended pursuant to RCW 50.16.030. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

(5) By January 31st of each fiscal year, the commissioner must deposit into the state basic health plan trust account created in RCW 70.47.030 any moneys appropriated from the dedicated marijuana account to the family and medical leave insurance account that exceeds the amount required to eliminate the solvency surcharge in RCW 50A.10.030(7).

**Sec.**  RCW 50A.10.030 and 2019 c 13 s 21 are each amended to read as follows:

(1)(a) Beginning January 1, 2019, the department shall assess for each individual in employment with an employer and for each individual electing coverage a premium based on the amount of the individual's wages subject to subsection (4) of this section.

(b) The premium rate for family leave benefits shall be equal to one-third of the total premium rate.

(c) The premium rate for medical leave benefits shall be equal to two-thirds of the total premium rate.

(2) For calendar year 2022 and thereafter, the commissioner shall determine the percentage of paid claims related to family leave benefits and the percentage of paid claims related to medical leave benefits and adjust the premium rates set in subsection (1)(b) and (c) of this section by the proportional share of paid claims.

(3)(a) Beginning January 1, 2019, and ending December 31, 2020, the total premium rate shall be four-tenths of one percent of the individual's wages subject to subsection (4) of this section.

(b) For family leave premiums, an employer may deduct from the wages of each employee up to the full amount of the premium required.

(c) For medical leave premiums, an employer may deduct from the wages of each employee up to forty-five percent of the full amount of the premium required.

(d) An employer may elect to pay all or any portion of the employee's share of the premium for family leave or medical leave benefits, or both.

(4) The commissioner must annually set a maximum limit on the amount of wages that is subject to a premium assessment under this section that is equal to the maximum wages subject to taxation for social security as determined by the social security administration.

(5)(a) Employers with fewer than fifty employees employed in the state are not required to pay the employer portion of premiums for family and medical leave.

(b) If an employer with fewer than fifty employees elects to pay the premiums, the employer is then eligible for assistance under RCW 50A.24.010.

(6) For calendar year 2021 and thereafter, the total premium rate shall be based on the family and medical leave insurance account balance ratio as of September 30th of the previous year. The commissioner shall calculate the account balance ratio by dividing the balance of the family and medical leave insurance account by total covered wages paid by employers and those electing coverage. The division shall be carried to the fourth decimal place with the remaining fraction disregarded unless it amounts to five hundred-thousandths or more, in which case the fourth decimal place shall be rounded to the next higher digit. If the account balance ratio is:

(a) Zero to nine hundredths of one percent, the premium is six tenths of one percent of the individual's wages;

(b) One tenth of one percent to nineteen hundredths of one percent, the premium is five tenths of one percent of the individual's wages;

(c) Two tenths of one percent to twenty-nine hundredths of one percent, the premium is four tenths of one percent of the individual's wages;

(d) Three tenths of one percent to thirty-nine hundredths of one percent, the premium is three tenths of one percent of the individual's wages;

(e) Four tenths of one percent to forty-nine hundredths of one percent, the premium is two tenths of one percent of the individual's wages; or

(f) Five tenths of one percent or greater, the premium is one tenth of one percent of the individual's wages.

(7)(a) Beginning January 1, 2021, if the account balance ratio calculated in subsection (6) of this section is below five hundredths of one percent, the commissioner must assess a solvency surcharge at the lowest rate necessary to provide revenue to pay for the administrative and benefit costs of family and medical leave, for the calendar year, as determined by the commissioner. The solvency surcharge shall be at least one-tenth of one percent and no more than six-tenths of one percent and be added to the total premium rate for family and medical leave benefits.

(b) If the commissioner determines that the solvency surcharge must be assessed pursuant to (a) of this subsection, the commissioner must use moneys appropriated from the dedicated marijuana account to the family and medical leave insurance account to eliminate the solvency surcharge, or if the appropriation is insufficient, to further reduce the solvency surcharge to the lowest rate possible with the amount appropriated.

(8)(a) The employer must collect from the employees the premiums and any surcharges provided under this section through payroll deductions and remit the amounts collected to the department.

(b) In collecting employee premiums through payroll deductions, the employer shall act as the agent of the employees and shall remit the amounts to the department as required by this title.

(c) On September 30th of each year, the department shall average the number of employees reported by an employer over the last four completed calendar quarters to determine the size of the employer for the next calendar year for the purposes of this section and RCW 50A.24.010.

(9) Premiums shall be collected in the manner and at such intervals as provided in this title and directed by the department.

(10) Premiums collected under this section are placed in trust for the employees and employers that the program is intended to assist.

(11) A city, code city, town, county, or political subdivision may not enact a charter, ordinance, regulation, rule, or resolution:

(a) Creating a paid family or medical leave insurance program that alters or amends the requirements of this title for any private employer;

(b) Providing for local enforcement of the provisions of this title; or

(c) Requiring private employers to supplement duration of leave or amount of wage replacement benefits provided under this title.

**Sec.**  RCW 50A.25.070 and 2020 c 125 s 8 are each amended to read as follows:

(1) The department may enter into data-sharing contracts and may disclose records and information deemed confidential to state or local government agencies under this chapter only if permitted under subsection (2) of this section and RCW 50A.25.090. A state or local government agency must need the records or information for an official purpose and must also provide:

(a) An application in writing to the department for the records or information containing a statement of the official purposes for which the state or local government agency needs the information or records and specifically identify the records or information sought from the department; and

(b) A written verification of the need for the specific information from the director, commissioner, chief executive, or other official of the requesting state or local government agency either on the application or on a separate document.

(2) The department may disclose information or records deemed confidential under this chapter to the following state or local government agencies:

(a) To the department of social and health services to identify child support obligations as defined in RCW 50A.15.080;

(b) To the department of revenue to determine potential tax liability or employer compliance with registration and licensing requirements;

(c) To the department of labor and industries to compare records or information to detect improper or fraudulent claims;

(d) To the office of financial management for the purpose of conducting periodic salary or fringe benefit studies pursuant to law;

(e) To the office of the state treasurer and any financial or banking institutions deemed necessary by the office of the state treasurer and the department for the proper administration of funds;

(f) To the office of the attorney general for purposes of legal representation;

(g) To a county clerk for the purpose of RCW 9.94A.760 if requested by the county clerk's office;

(h) To the office of administrative hearings for the purpose of administering the administrative appeal process;

(i) To the department of enterprise services for the purpose of agency administration and operations; ((~~and~~))

(j) To the consolidated technology services agency for the purpose of enterprise technology support; and

(k) To the office of the state actuary for the purpose of performing actuarial services to assess the financial stability and solvency of the family and medical leave program, and specifically the family and medical leave insurance account created in RCW 50A.05.070.

**Sec.**  RCW 69.50.540 and 2021 c 334 s 986 are each amended to read as follows:

The legislature must annually appropriate moneys in the dedicated marijuana account created in RCW 69.50.530 as follows:

(1) For the purposes listed in this subsection (1), the legislature must appropriate to the respective agencies amounts sufficient to make the following expenditures on a quarterly basis or as provided in this subsection:

(a) One hundred twenty-five thousand dollars to the health care authority to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(b) Fifty thousand dollars to the health care authority for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ends after production of the final report required by RCW 69.50.550;

(c) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(d)(i) An amount not less than one million two hundred fifty thousand dollars to the board for administration of this chapter as appropriated in the omnibus appropriations act;

(ii) One million three hundred twenty-three thousand dollars for fiscal year 2020 to the health professions account established under RCW 43.70.320 for the development and administration of the marijuana authorization database by the department of health;

(iii) Two million four hundred fifty-three thousand dollars for fiscal year 2020 and two million four hundred twenty-three thousand dollars for fiscal years 2021, 2022, and 2023 to the Washington state patrol for a drug enforcement task force. It is the intent of the legislature that this policy will be continued in the 2021-2023 fiscal biennium; and

(iv) Ninety-eight thousand dollars for fiscal year 2019 to the department of ecology for research on accreditation of marijuana product testing laboratories;

(e) Four hundred sixty-five thousand dollars for fiscal year 2020, four hundred sixty-four thousand dollars for fiscal year 2021, two hundred seventy thousand dollars in fiscal year 2022, and two hundred seventy-six thousand dollars in fiscal year 2023 to the department of ecology for implementation of accreditation of marijuana product testing laboratories;

(f) One hundred eighty-nine thousand dollars for fiscal year 2020 to the department of health for rule making regarding compassionate care renewals;

(g) Eight hundred eight thousand dollars for each of fiscal years 2020 through 2023 to the department of health for the administration of the marijuana authorization database;

(h) Six hundred thirty-five thousand dollars for fiscal year 2020, six hundred thirty-five thousand dollars for fiscal year 2021, six hundred twenty-one thousand dollars for fiscal year 2022, and six hundred twenty-seven thousand dollars for fiscal year 2023 to the department of agriculture for compliance-based laboratory analysis of pesticides in marijuana;

(i) One million six hundred fifty thousand dollars for fiscal year 2022 and one million six hundred fifty thousand dollars for fiscal year 2023 to the department of commerce to fund the marijuana social equity technical assistance competitive grant program under RCW 43.330.540; and

(j) One hundred sixty-three thousand dollars for fiscal year 2022 and one hundred fifty-nine thousand dollars for fiscal year 2023 to the department of commerce to establish a roster of mentors as part of the cannabis social equity technical assistance grant program under ((~~Engrossed Substitute House Bill No. 1443 (cannabis industry/equity) [chapter 169, Laws of 2021]~~)) chapter 169, Laws of 2021; and

(2) From the amounts in the dedicated marijuana account after appropriation of the amounts identified in subsection (1) of this section, the legislature must appropriate for the purposes listed in this subsection (2) as follows:

(a)(i) Up to fifteen percent to the health care authority for the development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women; PROVIDED, That:

(A) Of the funds appropriated under (a)(i) of this subsection for new programs and new services, at least eighty-five percent must be directed to evidence-based or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and

(B) Up to fifteen percent of the funds appropriated under (a)(i) of this subsection for new programs and new services may be directed to proven and tested practices, emerging best practices, or promising practices.

(ii) In deciding which programs and practices to fund, the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute.

(iii) For each fiscal year, the legislature must appropriate a minimum of twenty-five million five hundred thirty-six thousand dollars under this subsection (2)(a);

(b)(i) Up to ten percent to the department of health for the following, subject to (b)(ii) of this subsection (2):

(A) Creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(I) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

(II) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

(III) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(B) The Washington poison control center.

(ii) For each fiscal year, the legislature must appropriate a minimum of nine million seven hundred fifty thousand dollars under this subsection (2)(b);

(c)(i) Up to six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research.

(ii) For each fiscal year, except for the 2019-2021 and 2021-2023 fiscal biennia, the legislature must appropriate a minimum of one million twenty-one thousand dollars to the University of Washington. For each fiscal year, except for the 2019-2021 and 2021-2023 fiscal biennia, the legislature must appropriate a minimum of six hundred eighty-one thousand dollars to Washington State University under this subsection (2)(c). It is the intent of the legislature that this policy will be continued in the 2023-2025 fiscal biennium;

(d) ((~~Fifty~~)) Except for fiscal years 2023 through 2028, 50 percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW. For fiscal years 2023 through 2028, 25 percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) For fiscal years 2023 through 2028, 25 percent to the family and medical leave insurance account created in RCW 50A.05.070. Moneys appropriated pursuant to this subsection may not be transferred or expended into the family and medical leave insurance account until October 1st of each fiscal year;

(f) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

((~~(f)~~)) (g)(i) Up to three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW.

(ii) For each fiscal year, the legislature must appropriate a minimum of five hundred eleven thousand dollars to the office of the superintendent of public instruction under this subsection (2)((~~(f)~~)) (g); and

((~~(g)~~)) (h) At the end of each fiscal year, the treasurer must transfer any amounts in the dedicated marijuana account that are not appropriated pursuant to subsection (1) of this section and this subsection (2) into the general fund, except as provided in ((~~(g)~~)) (h)(i) of this subsection (2).

(i) Beginning in fiscal year 2018, if marijuana excise tax collections deposited into the general fund in the prior fiscal year exceed twenty-five million dollars, then each fiscal year the legislature must appropriate an amount equal to thirty percent of all marijuana excise taxes deposited into the general fund the prior fiscal year to the treasurer for distribution to counties, cities, and towns as follows:

(A) Thirty percent must be distributed to counties, cities, and towns where licensed marijuana retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (2)((~~(g)~~)) (h)(i)(A) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed marijuana retailers physically located in each jurisdiction. For purposes of this subsection (2)((~~(g)~~)) (h)(i)(A), one hundred percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town.

(B) Seventy percent must be distributed to counties, cities, and towns ratably on a per capita basis. Counties must receive sixty percent of the distribution, which must be disbursed based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed marijuana producer, processor, or retailer.

(ii) Distribution amounts allocated to each county, city, and town must be distributed in four installments by the last day of each fiscal quarter.

(iii) By September 15th of each year, the board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in ((~~(g)~~)) (h)(i) of this subsection (2).

(iv) The total share of marijuana excise tax revenues distributed to counties and cities in ((~~(g)~~)) (h)(i) of this subsection (2) may not exceed fifteen million dollars in fiscal years 2018, 2019, 2020, and 2021, and twenty million dollars per fiscal year thereafter.

NEW SECTION. **Sec.**  The sum of $125,000,000 is appropriated for the fiscal year ending June 30, 2022, from the federal coronavirus state fiscal recovery fund for expenditure into the family and medical leave insurance account created in RCW 50A.05.070.

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.

**--- END ---**