
SENATE BILL 5911

State of Washington

67th Legislature

2022 Regular Session

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

Read first time 01/19/22. Referred to Committee on Labor, Commerce & Tribal Affairs.

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

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

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

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

18 (3) The legislature intends to utilize federal funding from the
19 coronavirus state fiscal recovery fund of the American rescue plan
20 act of 2021 to provide this financial assistance to certain COVID-19

1 impacted health care workers to ensure a robust health care workforce
2 to serve Washingtonians.

3 NEW SECTION. **Sec. 2.** (1)(a) A covered employee is eligible for
4 a one-time hazard pay retention bonus if the employee worked 240
5 hours for a covered employer in the 12 calendar weeks immediately
6 preceding June 26, 2022.

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

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

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

18 (a) Legal full name;

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

21 (c) Mailing address.

22 (3) To determine the amount of the hazard pay retention bonus,
23 the department must divide the sum available for expenditure in the
24 health care employee hazard pay account created in section 3 of this
25 act, minus the sum of the department's administrative costs plus
26 \$50,000, by the total number of unique covered employees. In no event
27 may the hazard pay retention bonus equate to more than \$13 per hour
28 for the covered employee.

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

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

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

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

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

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

18 (10) For the purposes of this section:

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

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

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

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

29 (iii) Medical assistant-phlebotomist, as defined in RCW
30 18.360.010;

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

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

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

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

37 (viii) Respiratory care practitioner, as defined in RCW
38 18.89.020, with a scope of practice as described in RCW 18.89.040.

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

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

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

4 NEW SECTION. **Sec. 3.** The health care employee hazard pay
5 account is created in the custody of the state treasurer. Revenues to
6 the account shall consist of appropriations and transfers by the
7 legislature and all other funding directed for deposit into the
8 account. Expenditures from the account may be used only for providing
9 hazard pay retention bonuses and associated administrative costs of
10 the department. Only the director of the department of labor and
11 industries or the director's designee may authorize expenditures from
12 the account. The account is subject to the allotment procedures under
13 chapter 43.88 RCW, but an appropriation is not required for
14 expenditures. Any amounts remaining in the account upon expiration of
15 this act must be transferred into the state general fund.

16 NEW SECTION. **Sec. 4.** The department of labor and industries may
17 adopt rules to implement this act.

18 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of
20 the state government and its existing public institutions, and takes
21 effect immediately.

22 NEW SECTION. **Sec. 6.** This act expires June 30, 2023.

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