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**SUBSTITUTE SENATE BILL 5286**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Robinson, King, Keiser, Liias, Stanford, Wellman, and C. Wilson)

AN ACT Relating to enacting the unanimous recommendations of the paid family and medical leave task force; and amending RCW 50A.10.030.

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

**Sec.**  RCW 50A.10.030 and 2022 c 297 s 962 are each amended to read as follows:

(1)((~~(a) Beginning January 1, 2019, the~~)) 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~~)) 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~~)) set the family leave premium and the medical leave premium by applying the proportional share of paid claims for each type of leave to the total premium rate set in subsection (6) of this section.

(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)~~)) (b) For medical leave premiums, an employer may deduct from the wages of each employee up to ((~~forty-five~~)) 45 percent of the full amount of the premium required.

((~~(d)~~)) (c) 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~~)) 50 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~~)) 50 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.~~)) (a) On or around October 20th of each year, the commissioner must calculate the total premium rate as follows:

(i) Calculate an amount that equals 140 percent of the prior fiscal year's expenses, including the total amount of benefits paid and the department's administrative costs;

(ii) Subtract the balance of the family and medical leave insurance account created in RCW 50A.05.070 as of September 30th from the amount determined in (a)(i) of this subsection (6); and

(iii) Divide the difference in (a)(ii) of this subsection (6) by the prior fiscal year's taxable wages. The ((~~division shall~~)) quotient must 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) 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. Any projected expenditures of general fund moneys into the family and medical leave insurance account pursuant to section 723, chapter 297, Laws of 2022 must be excluded from the commissioner's determination of the necessary revenue to pay the administrative and benefit costs of family and medical leave for the calendar year.~~)) and then rounded up to the nearest one hundredth of one percent.

(b) The commissioner must set the total premium rate at the rate calculated in (a) of this subsection (6) subject to the following conditions:

(i) If the commissioner determines the total premium rate calculated in (a) of this subsection exceeds a rate necessary to maintain a three-month reserve at the end of the following rate collection year, the commissioner must set the total premium rate at the minimum rate necessary to close the rate collection year with a three-month reserve; and

(ii) The total premium rate must not exceed 1.20 percent.

(c) For the purposes of this subsection (6):

(i) "Taxable wages" means the total amount of wages subject to a premium assessment under this section for all individuals in employment with an employer and all individuals electing coverage.

(ii) "Three-month reserve" means the average monthly expenses, including the total amount of benefits paid and the department's administrative costs, in the prior 12 calendar months from the date of the calculation in this subsection multiplied by three.

((~~(8)~~)) (7)(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)~~)) (8) Premiums shall be collected in the manner and at such intervals as provided in this title and directed by the department.

((~~(10)~~)) (9) Premiums collected under this section are placed in trust for the employees and employers that the program is intended to assist.

((~~(11)~~)) (10) 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.

**--- END ---**