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SENATE BILL 5286

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State of Washington

68th Legislature

2023 Regular Session

By Senators Robinson, King, Keiser, Lias, Stanford, Wellman, and C. Wilson

Read first time 01/11/23. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to modifying the premium provisions of the paid  
2 family and medical leave program; and amending RCW 50A.10.030.

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

4 **Sec. 1.** RCW 50A.10.030 and 2022 c 297 s 962 are each amended to  
5 read as follows:

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

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

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

14 (2) ~~((For calendar year 2022 and thereafter, the))~~ The  
15 commissioner shall determine the percentage of paid claims related to  
16 family leave benefits and the percentage of paid claims related to  
17 medical leave benefits and ~~((adjust the premium rates set in  
18 subsection (1)(b) and (c) of this section by))~~ set the family leave  
19 premium and the medical leave premium by applying the proportional  
20 share of paid claims for each type of leave to the total premium rate  
21 set in subsection (6) of this section.

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

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

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

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

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

16           (5) (a) Employers with fewer than ~~((fifty))~~ 50 employees employed  
17 in the state are not required to pay the employer portion of premiums  
18 for family and medical leave.

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

22           (6) ~~((For calendar year 2021 and thereafter, the total premium~~  
23 ~~rate shall be based on the family and medical leave insurance account~~  
24 ~~balance ratio as of September 30th of the previous year. The~~  
25 ~~commissioner shall calculate the account balance ratio by dividing~~  
26 ~~the balance of the family and medical leave insurance account by~~  
27 ~~total covered wages paid by employers and those electing coverage.))~~

28           (a) On or around October 20th of each year, the commissioner must  
29 calculate the total premium rate as follows:

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

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

36           (iii) Divide the difference in (a)(ii) of this subsection (6) by  
37 the prior fiscal year's taxable wages. The ~~((division shall))~~  
38 quotient must be carried to the fourth decimal place ~~((with the~~  
39 ~~remaining fraction disregarded unless it amounts to five hundred-~~

1 thousandths or more, in which case the fourth decimal place shall be  
2 rounded to the next higher digit. If the account balance ratio is:

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

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

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

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

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

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

19 ~~(7) Beginning January 1, 2021, if the account balance ratio~~  
20 ~~calculated in subsection (6) of this section is below five hundredths~~  
21 ~~of one percent, the commissioner must assess a solvency surcharge at~~  
22 ~~the lowest rate necessary to provide revenue to pay for the~~  
23 ~~administrative and benefit costs of family and medical leave, for the~~  
24 ~~calendar year, as determined by the commissioner. The solvency~~  
25 ~~surcharge shall be at least one-tenth of one percent and no more than~~  
26 ~~six-tenths of one percent and be added to the total premium rate for~~  
27 ~~family and medical leave benefits. Any projected expenditures of~~  
28 ~~general fund moneys into the family and medical leave insurance~~  
29 ~~account pursuant to section 723, chapter 297, Laws of 2022 must be~~  
30 ~~excluded from the commissioner's determination of the necessary~~  
31 ~~revenue to pay the administrative and benefit costs of family and~~  
32 ~~medical leave for the calendar year.)) and then rounded up to the~~  
33 ~~nearest one hundredth of one percent.~~

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

37 (i) If the commissioner determines the total premium rate  
38 calculated in (a) of this subsection exceeds a rate necessary to  
39 maintain a three-month reserve at the end of the following rate  
40 collection year, the commissioner must set the total premium rate at

1 the minimum rate necessary to close the rate collection year with a  
2 three-month reserve; and

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

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

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

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

12 ~~((+8))~~ (7)(a) The employer must collect from the employees the  
13 premiums ~~((and any surcharges))~~ provided under this section through  
14 payroll deductions and remit the amounts collected to the department.

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

18 (c) On September 30th of each year, the department shall average  
19 the number of employees reported by an employer over the last four  
20 completed calendar quarters to determine the size of the employer for  
21 the next calendar year for the purposes of this section and RCW  
22 50A.24.010.

23 ~~((+9))~~ (8) Premiums shall be collected in the manner and at such  
24 intervals as provided in this title and directed by the department.

25 ~~((+10))~~ (9) Premiums collected under this section are placed in  
26 trust for the employees and employers that the program is intended to  
27 assist.

28 ~~((+11))~~ (10) A city, code city, town, county, or political  
29 subdivision may not enact a charter, ordinance, regulation, rule, or  
30 resolution:

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

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

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

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