

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5286

Chapter 116, Laws of 2023

68th Legislature
2023 Regular Session

PAID FAMILY AND MEDICAL LEAVE—PREMIUM RATE

EFFECTIVE DATE: July 23, 2023

Passed by the Senate February 1, 2023
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 6, 2023
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved April 20, 2023 10:16 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5286** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

April 21, 2023

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5286

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

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

READ FIRST TIME 01/18/23.

1 AN ACT Relating to enacting the unanimous recommendations of the
2 paid family and medical leave task force; and amending RCW
3 50A.10.030.

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

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

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

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

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

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

1 share of paid claims for each type of leave to the total premium rate
2 set in subsection (6) of this section.

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

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

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

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

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

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

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

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

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

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

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

38 (iii) Divide the difference in (a)(ii) of this subsection (6) by
39 the prior fiscal year's taxable wages. The ((division shall))
40 quotient must be carried to the fourth decimal place ~~((with the~~

1 remaining fraction disregarded unless it amounts to five hundred-
2 thousandths or more, in which case the fourth decimal place shall be
3 rounded to the next higher digit. If the account balance ratio is:

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

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

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

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

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

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

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

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

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

1 collection year, the commissioner must set the total premium rate at
2 the minimum rate necessary to close the rate collection year with a
3 three-month reserve; and

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

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

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

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

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

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

19 (c) On September 30th of each year, the department shall average
20 the number of employees reported by an employer over the last four
21 completed calendar quarters to determine the size of the employer for
22 the next calendar year for the purposes of this section and RCW
23 50A.24.010.

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

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

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

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

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

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

Passed by the Senate February 1, 2023.

Passed by the House April 6, 2023.

Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

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