

SENATE BILL REPORT

E2SHB 1213

As Reported by Senate Committee On:
Labor & Commerce, March 28, 2025
Ways & Means, April 8, 2025

Title: An act relating to expanding protections for workers in the state paid family and medical leave program.

Brief Description: Expanding protections for workers in the state paid family and medical leave program.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Berry, Fosse, Reed, Obras, Fitzgibbon, Alvarado, Mena, Macri, Ryu, Farivar, Doglio, Simmons, Peterson, Street, Wylie, Pollet, Ormsby, Lekanoff, Salahuddin and Hill).

Brief History: Passed House: 3/11/25, 55-41.

Committee Activity: Labor & Commerce: 3/24/25, 3/28/25 [DPA-WM, DNP].
Ways & Means: 4/05/25, 4/08/25 [DPA, DNP].

Brief Summary of Amended Bill

- Reduces the minimum claim period for benefits under the Washington Paid Family and Medical Leave Program (PFML) from eight consecutive hours to four consecutive hours of leave.
- Extends employment protection rights in PFML to an employee who began employment with their current employer at least 180 calendar days before taking leave, and the employer employs at least 25 employees as of the bill's effective date—January 1, 2026, which is phased down to employers with at least 8 employees beginning January 1, 2028.
- Allows employers to prevent stacking of certain employment protection rights by extending employment protection in PFML to periods of unpaid leave protected by the federal Family and Medical Leave Act, so long as the employer provides certain notices to the employee, and

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providing that employment protection expires after certain periods.

- Expands health care coverage protection during any period in which an employee receives PFML benefits and is also entitled to employment protection.
- Extends access to grants for small employers to offset the costs of employees' use of leave in PFML.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Saldaña, Chair; Conway, Vice Chair; Alvarado, Ramos and Stanford.

Minority Report: Do not pass.

Signed by Senators King, Ranking Member; Braun, MacEwen and Schoesler.

Staff: Susan Jones (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke, Braun, Muzzall, Wagoner and Warnick.

Staff: Josh Hinman (786-7281)

Background: Washington Paid Family and Medical Leave Program. The Washington Paid Family and Medical Leave Program (PFML), which is administered by the Employment Security Department (ESD), provides partial wage replacement benefits to employees on leave for specified family and medical reasons.

Paid Family and Medical Leave Program Premiums. PFML is funded through premiums paid by employers and employees. Employers collect the premium on each employee's taxable wages and remit the funds to ESD on a quarterly basis, which are then deposited into the Family and Medical Leave Insurance Account. The total premium rate for

combined family leave and medical leave benefits is established through a statutory formula and adjusted annually by ESD. The total premium for 2025 is 0.92 percent of taxable wages, of which 71.52 percent is allocated to employees and 28.48 percent is allocated to employers, except employers with fewer than 50 employees are not required to pay the premium.

On September 30th of each year, ESD calculates the size of each employer for purposes of the following calendar year by averaging the number of employees reported by the employer over the last four completed calendar quarters. The calculation is used for determining whether an employer is required to pay the employer portion of the premium and whether the employer qualifies for a small business grant.

Small Business Grant Assistance. Employers with 150 or fewer employees and employers with 50 or fewer employees who are assessed all premiums may apply to ESD for a grant. An employer may receive a \$3,000 grant if the employer hires a temporary worker to replace an employee on family or medical leave for a period of seven days or more. For an employee's family or medical leave, an employer may receive a grant of up to \$1,000 as reimbursement for significant additional wage-related costs due to the employee's leave.

An employer may not receive both grants, except that an employer who received a wage-related costs grant may receive a grant of the difference between wage-related costs grant and \$3,000 if the employee on leave extended the leave beyond the leave initially planned and the employer hired a temporary worker for the employee on leave.

An employer may apply for a grant no more than ten times per calendar year and no more than once for each employee on leave. To be eligible for a grant, the employer must provide ESD written documentation showing the temporary worker hired or significant wage-related costs incurred are due to an employee's use of family or medical leave. An employer who has an approved voluntary plan is not eligible to receive a grant under this section.

ESD must assess an employer with fewer than 50 employees who receives a grant for all premiums for three years from the date of receipt of a grant.

Washington Paid Family and Medical Leave Program Benefits. An eligible employee may access paid family or medical leave benefits for a qualifying event if the employee worked at least 820 hours during a qualifying year. The 820 hours can be satisfied in one or more positions with one or more employers. An eligible employee can access up to 12 weeks of medical leave or family leave benefits, or up to 16 to 18 weeks of combined medical and family leave benefits in a year. An eligible employee may receive benefits up to a specified percentage of their average weekly wage, subject to a weekly maximum, which is \$1,542 in 2025.

Eligible employees' use of paid leave benefits is based on their need. Depending on the

circumstances, an eligible employee may use paid leave benefits in a single continuous period or may use it intermittently. The minimum claim period to qualify for benefits is eight consecutive hours.

Employment Protection. An employer with 50 or more employees is required to restore an eligible employee to an equivalent position with equivalent pay and benefits upon returning from leave in PFML, often referred to as employment protection or employment restoration. For an employee to qualify for employment protection, the employee must have worked for the employer for at least 12 months and for 1250 hours in the year before the first day they used paid leave benefits. If the employer has opted to use an approved employer-managed voluntary plan for paid family and medical leave, then employment protection must be given to any employee who has worked for the employer for at least nine months and for at least 965 hours in the previous year.

An employer may deny employment protection to any salaried employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed if certain conditions are satisfied.

Health Care Coverage. If the federal Family and Medical Leave Act (FMLA) requires the employer to maintain health care coverage during any period in which an eligible employee uses paid or family medical leave benefits in PFMLA, then state law also requires the employer to maintain the coverage during the employee's leave. If the employer and employee share the cost of the existing health benefits, the employee remains responsible for the employee's share of the cost.

Outreach. ESD must conduct outreach to ensure that eligible employees are made aware of PFML. Employers are also required to inform employees about PFML by posting certain notices developed by ESD, information about the availability of certain small employer grants. Employers may also provide an optional pay stub insert developed by ESD.

Washington Paid Family and Medical Leave Program Enforcement. ESD may inspect and audit employer files and records relating to PFML. ESD is authorized to conduct certain enforcement actions to ensure compliance with PFML requirements.

Federal Family and Medical Leave Act. FMLA allows an eligible employee to take up to 12 weeks of job-protected, unpaid leave in a 12-month period for a qualifying reason. Eligible employees are also entitled to continuing health care benefits. FMLA applies to employees who have worked for a private employer with 50 or more employees or for a public employer, and have worked for the employer for at least 12 months and for at least 1250 hours during the previous 12 months. Eligible employees must meet all eligibility requirements, including a requirement that the employer employ at least 50 employees at the worksite or within 75 miles of that worksite. Upon return from leave, the employee is entitled to be returned to the same or an equivalent position.

State law provides that leave taken under PFML must be taken concurrently with leave under FMLA, unless an employer permits otherwise.

Summary of Amended Bill: Washington Paid Family and Medical Leave Program Premium Related Issues. The method by which ESD calculates the size of an employer for purposes of premium requirements and grant eligibility is modified. On September 30th of each year, ESD must average the number of employees reported by an employer on the last day of each quarter over the last four completed calendar quarters.

ESD Office of Actuarial Services must submit a report within ten business days to PFML Advisory Committee and the Legislature if it projects that a deficit in the Family and Medical Leave Insurance Account will not be recovered through the next quarterly premium collections.

Small Business Grant Assistance. The eligibility criteria and requirements for the current small business grants are modified to apply only to employers with 50 to 150 employees. A grant is established for employers with fewer than 50 employees of \$3,000 for the costs of hiring a temporary worker to replace an employee leave for a period of seven days or more or for significant additional wage-related costs due to the employee's leave, which may be documented through an attestation submitted by the employer.

An employer must submit a grant application no later than 12 months after the employee's first day of leave. ESD must submit payment to the employer within 14 calendar days after receiving a qualifying application. The employer may not receive the grant more than ten times per calendar year and more than once per employee. ESD must assess any employer who receives one or more of these grants for all premiums for three years from the date of receipt of a grant. Grants are paid from the Family and Medical Leave Insurance Account. ESD must send employers certain notices and publish information on its website regarding grant eligibility.

Washington Paid Family and Medical Leave Program Benefits. The minimum claim period to qualify for benefits is reduced to four consecutive hours of leave.

Washington Paid Family and Medical Leave Program Employment Protection. The standards for employment protection are modified. Employers are required to provide employment protection to eligible employees while on PFML leave if the employee works for an employer with:

- 25 or more employees from January 1, 2026, to December 31, 2026;
- 15 or more employees from January 1, 2027, to December 31, 2027; and
- 8 or more employees on or after January 1, 2028.

The minimum hourly threshold for qualifying for employment protection is removed. Instead, to qualify for protection, an employee must have begun employment with their current employer for at least 180 calendar days before taking leave. This applies both to

employers participating in PFML and also to those opting to use approved voluntary plans.

Employment protection is extended to any period of unpaid leave protected by FMLA where the employee was eligible for PFML benefits but did not apply for and receive those benefits, so long as the employer provides certain written notices to the employee. The written notices must include certain elements identified in the bill, including that the leave is counting against any permitted period of employment protection under PFML and FMLA, and that the use of unpaid leave does not affect the employee's eligibility for benefits in PFML.

Maximum periods of employment protection are established. Except by written agreement between the employer and employee or an employee bargaining unit, the employee forfeits the right to employment restoration if the employee does not exercise it upon the earlier of the:

- first scheduled work day following the period of leave; or
- first scheduled work day following a continuous period of, or combined intermittent periods of a total of, 16 typical workweeks of leave taken during a period of 52 consecutive calendar weeks, except this period is extended to 18 typical workweeks of leave during a period of 52 consecutive calendar weeks if any of the leave was taken as a result of a serious health condition with a pregnancy resulting in incapacity.

For leave extending certain periods, the employer must provide at least five business days advance written notice to the employee, regarding the estimated expiration of employment protection and the date of the employee's first scheduled work day. The notice must be sent in the language understood by the employee and transmitted by a method reasonably certain to be received promptly by the employee.

Health Care Coverage. The requirement for employers to maintain health care coverage is expanded. Employers must maintain an employee's health care coverage during any period of leave in PFML in which the employee is also entitled to employment protection.

Outreach and Enforcement. ESD must conduct regular outreach to employers regarding their responsibilities under PFML and information about the availability of certain small employer grants. The written statement of employee rights and posters distributed and posted by employers must explain certain elements provided in the bill. ESD may conduct periodic audits of employer files and records for the purposes of assisting with and otherwise enforcing compliance. ESD may require the employer to collect and report information on the exercise of employment protection rights.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Requires the Employment Security Department to include in its employer information, the availability of PFML grants to certain smaller employers.

- Removes the grant available for employers with fewer than 50 employees related to health care costs.
- Modifies employment protection while on paid family and medical leave to apply if the employee works for an employer with:
 1. 25 or more employees from January 1, 2026, to December 31, 2026;
 2. 15 or more employees from January 1, 2027, to December 31, 2027; and
 3. 8 or more employees on or after January 1, 2028.

EFFECT OF LABOR & COMMERCE COMMITTEE AMENDMENT(S):

- Requires the Employment Security Department to include in its employer information, the availability of PFML grants to certain smaller employers.
- Removes the grant available for employers with fewer than 50 employees related to health care costs.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2026.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Labor & Commerce): *The committee recommended a different version of the bill than what was heard.* PRO: The bill is a needed fix to the Paid Family and Medical Leave Program. When the original bill passed, it left many Washingtonians with the worst paid leave job protection standards in the country. Nearly half of workers have no right to have their job back if they take leave. Without job protection, it is a right in name only and a privilege for workers who can most afford to risk their jobs. A UW study funded by the Legislature in 2023 found that only 16 percent of low wage workers have access to job protection. After nearly a decade, it is time for Washington to catch up to other states' paid leave programs. This bill sends a clear message that Washington values its workforce and is committed to leading the way in providing meaningful, accessible support for all working families.

Workers gave examples of their difficulties in taking leave and having job protection. A worker discussed being pressured to go back to work sooner because they worked for a very small business. Firefighters are getting younger and are starting families. With that comes the need to balance childcare bonding time and medical appointments. This bill acknowledges that fact by reducing the minimum claim duration from eight to four hours. This flexibility will allow more individuals to access their benefits without unnecessary barriers or hardships to the employers. We have approximately 1200 firefighters in the state

who work for departments with less than 50 employees.

The bill fixes leave stacking. In the other chamber, we came together to try to address some of the small business concerns with the greatly expanded grant program to help cover some of those costs. Other states have this kind of job protection for employees of small businesses and those other states continue to have small businesses.

Solvency is a challenge, but that is a challenge whether or not this bill passes. There is a Senate vehicle that has been considered as a vehicle to try to solve some of those problems.

The outreach provisions are vital for ensuring that workers across the state, particularly those in marginalized and underserved communities, are aware of their rights and resources. Providing materials in multiple languages and making the application process clear will increase participation and equity.

CON: This legislation undermines the carefully negotiated agreement within just five years of implementation based on a flawed study. The foundational commitments of the program have been altered and eroded. Each year we have seen piecemeal changes that have ignored the original guardrails meant to protect taxpayers and businesses from additional costs. This risks further destabilizing the program. It is disappointing that the Legislature is considering abandoning a hard-fought negotiation and agreement reached between business, labor, and the government so quickly.

The proposed expansions are so extensive that the program is likely to face insolvency by 2028. This would force the Legislature to increase rates on both employees and employers. In addition, there are still no protections for fraud under the program.

The fiscal note shows a tremendous cliff of cost and rate increases, likely to exceed the cap as soon as 2027. This goes back on the agreement made with the workers of this state and employers of a 1.2 percent cap on the payroll tax. According to the fiscal note, ESD assumes there will be an increase in use. We will have the most expensive Paid Family Medical Leave Program in the nation and the rates will increase for all.

The program has faced repeated administrative and financial challenges, including ongoing solvency issues. Despite these concerns, the bill proposes a significant expansion of access to a program that has already struggled to meet its obligations. Expanding benefits without addressing the fundamental fiscal and operational flaws of the system jeopardizes the long-term viability of this program.

The bill removes one of the key principles to protect small businesses. The small employer provision was carefully negotiated in 2017 to follow federal law and allow businesses with less than 50 employees to be treated differently. Reducing the qualifying threshold for employees is a direct hardship for small business. Being forced to retain a job for a part-time worker is incredibly difficult. Applying for grants is also easier said than done and just

adds another layer of burden on a small employer. The grants are often difficult to get and do not cover the full costs expended in the event an employee on leave must be replaced.

Local independent grocery convenience stores and their suppliers are already struggling. Requiring them to hold a job with higher replacement costs and uncertainty of when or if the workers coming back can be really challenging. Even the smallest stores work to retain employees out on leave; but being required to continue health care coverage after only 180 days on the job is incredibly costly. Many small employers are providing health care right now. This bill will encourage them to not provide health insurance for their employees.

Contractors have to have employees ready to work so timelines will be met. Some jobs need specific types of training. We need flexibility to make sure that the jobs can get done. Requiring a small restaurant to hold a chef position open for three months could actually close this business. Few chefs with the technical and practical experience would take this position.

The mandates will only serve to increase costs, reduce flexibility, and impact small business job growth. This is something our economy cannot afford right now.

OTHER: We are concerned about the impact on small cities. Over half of Washington cities and towns have less than 5000 people. This means they usually have small numbers of staff. We are concerned about them and what will happen if they are unable to have those positions filled.

Persons Testifying (Labor & Commerce): PRO: Claudia Franson; Piedad Belinda Brito Guadalupe; Margarita Mota; Maggie Humphreys, MomsRising; Joe Kendo, Washington State Labor Council AFL-CIO; Nich Gullickson, WA State Council of Firefighters; Katherine Chamberlain, Washington Employment Lawyers Association.

CON: Katie Beeson, Washington Food Industry Association (WFIA); Andra Mobley, A & J Market; Patrick Connor, NFIB; Carolyn Logue, Associated Builders and Contractors Inland Pacific Chapter; Christine Brewer, Associated General Contractors of Washington; Kerri Lonergan-Dreke, Lombardi's Italian Restaurant; Amber Carter, WA Retail; Jan Himebaugh, Building Industry Association of Washington; Morgan Irwin, Association of Washington Business.

OTHER: Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying (Labor & Commerce):

CON: Sandra Mochizuki; Julia Gorton, Washington Hospitality Association; Sandra Brock; Anthony Holan.

Staff Summary of Public Testimony on Bill as Amended by Labor & Commerce (Ways & Means): *The committee recommended a different version of the bill than what*

was heard. PRO: Mom's Rising is in strong support of HB 1213. Under current law, nearly half of the workers covered by PFML have no right to their job back if they need to take paid leave. The Legislature funded a study to look at this and found that while 70 percent of high-income workers have job protection, only 16 percent of low-income workers do. This is a much needed equity fix to a program that is likely one of the most popular programs Washington provides for its residents. We urge support.

A mother was fired on her second day back from maternity leave. Another mother was fired for taking leave to care for her daughter suffering from severe postpartum depression. Another mother was eligible for PFML with the birth of her daughter, which brought a lot of peace of mind. Her employer pressured her to come back to work almost immediately, citing their small business status, and did not hold her job. She returned to work two weeks after giving birth to avoid being fired. Had job protection existed, she would have used the full benefit.

Teamsters 117 supports the bill. PFML is a self-financed program that does not access general fund dollars. The bill ensures that PFML is truly accessible for all workers who are paying into this system, not just white collar employees. The bill is balanced and has been significantly amended after multiple negotiations with business advocates. It reduces protected leave for FMLA covered workers by three months, which will reduce costs for many public employers. It includes a streamlined grant process to give small businesses up to \$3,000 a year in grants, not loans to cover the costs of employees on leave. And it requires six months on the job before job protection is available, eliminating protections for seasonal and temporary workers.

The PFML program will be hopefully moving to an actuarial rate model setting to ensure it's long term financial health and stability.

CON: The Washington Hospitality Association was supportive of the original legislation that created PFML several years ago, which acknowledge that small businesses should not be held to the same requirements as large businesses. HB 1213 undoes this and it makes the smallest businesses with as few as one employee comply with the same requirements as large businesses. We request to maintain an employee threshold of at least 20 employees as well as a minimum hours threshold, so the smallest businesses can continue to operate. Small businesses also need the flexibility on positions that require specialized training or functions.

We believe these requests are reasonable and maintain the original intent of the legislation, which was to provide flexibility for small businesses. We appreciate the implementation errors that were tackled in this bill, the job protection stacking provision, and the streamlining of the grants.

Associated General Contractors is opposed to HB 1213. It's unfortunate because it is a very popular program and it was bipartisan when this passed seven years ago. But we feel like

from the employer standpoint, all we've done is defend each year the bipartisan, balanced approach that we developed seven years ago when we passed the bill.

The program has had a very bumpy implementation, requiring a general fund loan and a JLARC audit. Also significant wait times of 30 minutes on the phone. Workers are waiting about a month to receive their benefits.

HB 1213 represents a significant expansion to a program that was balanced when it began. Consider the impacts to small business.

65 percent of the testifier's 5000 membership are employers with 25 employees or less. Our employers are coming to us and saying, "hey, if we have increased costs because of this or other labor bills, what can we do?" And for many of them, the answer is, if we're a smaller employer, we're not required to provide health care for our current workers. So we'll have to make cuts where we can, which will increase costs and, especially for our small employers, including cuts that are potentially detrimental not only to them, but to their employees and the folks that they're trying to serve.

We don't think this is the right bill for Washington. We don't think it'll help workers in the way that it's intended to, and we ask that you put it down.

The Building Industry Association of Washington is opposed to HB 1213. BIAW has more than 8300 members across the state representing every segment of residential construction. 80 percent of our members are small business owners with 8 to 15 employees only, who provide valuable family wage jobs across the state. This bill undermines the original agreement from 2017 and expands the program without regard to the impending financial challenges that have been mentioned.

The department estimates the PFML program will be insolvent by 2027 and require additional financial support. Either through general fund transfers or rate increases beyond the current statutory cap. Our members in the residential construction industry worry that this major expansion of the program will make the insolvency issue worse and lead to much higher cost on the road.

The Washington Food Industry Association employs roughly 80,000 employees across the state, and many of those individuals work for stores or suppliers with over 50 employees, so they are already paying into the program. But many of our stores, like our convenience stores, employ 15 people or less. There's a pretty grave concern about needing to hold job protections for these smaller businesses. Requiring our smallest employers to hold a job or retain health care coverage is incredibly costly. And we believe this bill will increase costs for not only those employers, but also the large ones at the same time.

Washington Retail is opposed to HB 1213. This bill eliminates the small business promise that was made in 2017. It threatens the long-term sustainability of the program. It will

increase premium costs for employers and employees alike. We are very concerned after looking at JLARC findings concerning solvency challenges. It's been predicted that we'll have a negative balance during parts of 2025 and 2026.

The fiscal note assumes that with increased use and increased premium collections that we will have an additional \$8 million in need for 2026 leading to \$337 million in cost by 2030. If HB 1213 passes in its current form, we will have the most expensive paid family medical leave program in the nation. We encourage your strong caution given that we had just a couple years ago, a \$200 million subsidy from the general fund to make this program solvent.

OTHER: The Association of Washington Cities appreciates that the bill tries to address the concerns about stacking leave. And we appreciate the changes that were made to address some of our most significant concerns, moving this to 180 days instead of 90 days. We do still have some concerns. As you heard, there are 175 cities in our state that have 50 or fewer employees, 95 that have 10 or fewer employees, and actually 59 that have 5 or fewer employees. This bill could make it challenging to meet some statutory requirements around things like the Public Records Act if their employees are out on leave . So we're asking that you give us a little bit more flexibility as you look at this proposal. Look at expanding key employee exemptions so that we can continue to provide services in these smallest communities.

Persons Testifying (Ways & Means): PRO: Maggie Humphreys, MomsRising; Margarita Mota, MomsRising; Sam Grad, Teamsters 117.

CON: Mike Ennis, Building Industry Association of Washington (BIAW); Julia Gorton, Washington Hospitality Association; Christine Brewer, AGC; Morgan Irwin, AWB; Katie Beeson, Washington Food Industry Association (WFIA); Amber Carter, WA Retail Association.

OTHER: Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.