SENATE BILL REPORT
SB 5292

As of January 16, 2025

Title: An act relating to paid family and medical leave rates.

Brief Description: Concerning paid family and medical leave rates.

Sponsors: Senators Conway, Saldaña, Cortes, Nobles, Salomon and Wilson, C..

Brief History:

Committee Activity: Labor & Commerce: 1/21/25.

Brief Summary of Bill

- Requires the Employment Security Department Commissioner to set the paid family and medical leave program premium rate based on the Office of Actuarial Services annual report.
- Mandates the Office of Actuarial Services annual report to provide for a rate to close the rate collection year with a three-month reserve, in addition to the current requirement to maintain a four-year solvency.
- Eliminates the statutory formula used to calculate the rate and the 1.2 percent rate cap.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Susan Jones (786-7404)

Background: General. The Paid Family and Medical Leave program (PFML) provides partial wage replacement to employees on leave for specified family and medical reasons. The program is funded through premiums paid by employers and employees. The program is administered by the Employment Security Department (ESD).

Premium Rate Calculation. The total premium rate is calculated in three steps:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- step one— an amount that equals 140 percent of the prior fiscal year's expenses, including the benefits paid and the administrative costs is calculated;
- step two—the balance of the Family and Medical Leave Insurance Account (account) as of September 30th is subtracted from the amount determined in step one; and
- step three—the difference in step two is divided by the prior fiscal year's taxable wages.

If the calculated rate exceeds a rate necessary to maintain a three-month reserve at the end of the following rate collection year, the rate must be set at the minimum rate necessary to close the rate collection year with a three-month reserve. In addition, the rate must not exceed 1.2 percent. In the 2023 operating budget, $200 million was appropriated into the account. This reduced the 2024 rate.

Premiums. Premiums are assessed quarterly and remitted to ESD in conjunction with employer reporting in the month following the end of each quarter. The 2025 total PFML premium rate is 0.92 percent. Premiums are split between family leave and medical leave based on the percentage of paid claims for each type of claim. For 2025, the family premium is 48.22 percent and the medical premium is 51.78 percent of the total premium. Employers may withhold from employees up to 100 percent of the family leave premium and up to 45 percent of the medical leave premium. For 2025, this would allocate 71.52 percent of the premiums to employees and 28.48 percent of the premium to employers. Small employers—employers with 49 or fewer employees—are generally exempt from paying the employer portion of the premium.

Premiums are paid on wages up to the maximum wages subject to tax for social security (social security cap). For 2025, the social security cap is $176,100.

Eligibility and Benefits. Employees are eligible for benefits under PFML after working at least 820 hours in a qualifying period. A qualifying period is the first four of the last five full calendar quarters, or the last four full calendar quarters. The program generally allows for up to 12 weeks of paid family leave or paid medical leave for eligible workers. Under certain circumstances, up to 16 or 18 weeks of combined leave is allowed. Benefits are paid after a seven-day waiting period.

Benefits depend on the amount of the employee's average weekly wage and may provide up to 90 percent of the employee's weekly pay for each week of leave. The 2025 maximum weekly PFML benefit is $1,542 and the minimum is $100.

Office of Actuarial Services Report. In 2022, the Legislature created the Office of Actuarial Services (Office) within ESD. The Office is required to report annually to the PFML advisory committee on the experience and financial condition of the account, and the lowest future premium rates necessary to maintain solvency of the account in the next four years while limiting fluctuation in the premium rates. The 2024 report provides:

- the 2025 calculated premium rates reflect an expected material increase from 2024.

Historically, claims outpaced premiums, which resulted in an account deficit in 2023. A $200 million cash injection in 2023 resolved the account deficit. The current regulatory premium rate calculation method only considers prior period experience and not forward-looking costs. The higher account balance that included the $200 million caused the 2024 calculated rate to be lower than the projected experience would indicate. Because of this, prior period claims continue to outpace premiums and a larger increase in 2025 was expected;
- claims experience has generally been higher than projected, which is reflected in larger rate increases in 2025 and 2026. Rates calculated in 2027 are projected to reach 1.2 percent, which is the maximum allowed premium rate in the statute. This is related to higher claims trends, as well as program changes; and
- ESD recommends further exploration of adopting actuarial premium rates and shifting to an actuarial rate setting approach. Over time, the actuarial model would provide greater account stability and better match premiums with program expenditures, while potentially leading to a lower tax burden for employers and employees.

Joint Legislative Audit and Review Committee Report. In 2022, the Legislature required the Joint Legislative Audit and Review Committee (JLARC), in consultation with ESD, to conduct a performance audit analyzing the implementation of the PFML program. For PFML rates, the JLARC report recommends the program:
- use a forward-looking rate-setting approach that is based on actuarial estimates of future revenues and benefit costs; and
- maintain a financial reserve to cover shortfalls.

The report provided the following additional comments. A forward-looking rate-setting approach can reduce volatility and incorporate long-term financial projections. Seven of nine state PFML programs reviewed by JLARC staff use forward-looking approaches. A reserve target or floor allows rates to move up or down to maintain a targeted balance. Washington is the only state to use a reserve cap for its PFML program reserve.

Summary of Bill: The ESD Commissioner must set the PFML premium rate based on the Office of Actuarial Services annual report. The Office of Actuarial Services report must provide for a rate to close the rate collection year with a three-month reserve, in addition to the current requirement to maintain a four-year solvency. The statutory formula used to calculate the rate and 1.2 percent rate cap are eliminated.

Appropriation: None.

Fiscal Note: Requested on January 15, 2025.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.