

**Chapter 50A.10 RCW
PREMIUMS**

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RCW 50A.10.010 Elective coverage—Self-employed. (1) For benefits payable beginning January 1, 2020, any self-employed person, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage under this title for an initial period of not less than three years and subsequent periods of not less than one year immediately following a period of coverage. Those electing coverage under this section must elect coverage for both family leave and medical leave and are responsible for payment of one hundred percent of all premiums assessed to an employee under RCW 50A.10.030. The self-employed person must file a notice of election in writing with the department, in a manner as required by the department in rule. The self-employed person is eligible for family and medical leave benefits after working eight hundred twenty hours in the state during the qualifying period following the date of filing the notice.

(2) A self-employed person who has elected coverage may withdraw from coverage within thirty days after the end of each period of coverage, or at such other times as the commissioner may adopt by rule, by filing a notice of withdrawal in writing with the commissioner, such withdrawal to take effect not sooner than thirty days after filing the notice with the commissioner.

(3) The department may cancel elective coverage if the self-employed person fails to make required payments or file reports. The department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation shall be effective no later than thirty days from the date of the notice in writing advising the self-employed person of the cancellation.

(4) Those electing coverage are considered employers or employees where the context so dictates.

(5) For the purposes of this section, "independent contractor" means an individual excluded from employment under RCW 50A.05.010(8)(b)(iii) and (iv).

(6) In developing and implementing the requirements of this section, the department shall adopt government efficiencies to improve administration and reduce costs. These efficiencies may include, but are not limited to, requiring that payments be made in a manner and at intervals unique to the elective coverage program.

(7) The department shall adopt rules for determining the hours worked and the wages of individuals who elect coverage under this section and rules for enforcement of this section. [2020 c 125 § 2; 2019 c 13 § 19; 2017 3rd sp.s. c 5 § 10. Formerly RCW 50A.04.105.]

RCW 50A.10.020 Elective coverage—Tribes. A federally recognized tribe may elect coverage under RCW 50A.10.010. The department shall adopt rules to implement this section. [2019 c 13 § 20; 2018 c 141 § 2; 2017 3rd sp.s. c 5 § 11. Formerly RCW 50A.04.110.]

RCW 50A.10.030 Premiums—Limitation on local regulation. (1) 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.

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

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

(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 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 50 employees elects to pay the premiums, the employer is then eligible for assistance under RCW 50A.24.010.

(6)(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 quotient must be carried to the fourth decimal place 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.

(7)(a) The employer must collect from the employees the premiums 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.

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

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

(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.

[2023 c 116 § 1; 2022 c 297 § 962; 2019 c 13 § 21; 2017 3rd sp.s. c 5 § 8. Formerly RCW 50A.04.115.]

Effective date—2022 c 297: See note following RCW 43.79.565.

RCW 50A.10.040 Out-of-state employees—Premium waiver. (1) An employer may file an application with the department for a conditional waiver for the payment of family and medical leave premiums, assessed under RCW 50A.10.030, for any employee who:

(a) Primarily performs work outside of the state;

(b) Is employed in the state on a limited or temporary work schedule; and

(c) Is not expected to be employed in the state for eight hundred twenty hours or more in a period of four consecutive completed calendar quarters.

(2) Both the employee and employer must sign the application verifying their belief that the conditions in subsection (1) of this section will be met.

(3) If the department finds any of the conditions in subsection (1) of this section are no longer satisfied, or were not satisfied at any point after a conditional waiver was approved and is in effect, the department will consider the conditional waiver expired and the

employer and employee will be responsible for their shares of all premiums that would have been paid during this period had the waiver not been granted. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this title as if the premiums were originally paid. [2020 c 125 § 3; 2019 c 13 § 22; 2017 3rd sp.s. c 5 § 9. Formerly RCW 50A.04.120.]

RCW 50A.10.050 Termination or disposal of business—Premium payment—Successor liability. Whenever any employer quits business, or sells out, exchanges, or otherwise disposes of the employer's business or stock of goods, any premiums payable under this title shall become immediately due and payable, and the employer shall, within ten days, make a return and pay the premiums due; and any person who becomes a successor to such business shall become liable for the full amount of the premiums and withhold from the purchase price a sum sufficient to pay any premiums due from the employer until such time as the employer produces a receipt from the employment security department showing payment in full of any premiums due or a certificate that no premium is due and, if such premium is not paid by the employer within ten days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of premiums, and the payment thereof by such successor shall, to the extent thereof, be deemed a payment upon the purchase price, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such successor from the employer. A successor may not be liable for any premiums due from the person from whom that person has acquired a business or stock of goods if that person gives written notice to the employment security department of such acquisition and no assessment is issued by the department within one hundred eighty days of receipt of such notice against the former operator of the business and a copy thereof mailed to such successor. [2019 c 13 § 23; 2017 3rd sp.s. c 5 § 67. Formerly RCW 50A.04.125.]