

Commerce & Labor Committee

HB 1520

Brief Description: *Establishing family leave insurance.*

Sponsors: *Representatives Dickerson, Keiser, Conway, Kessler, Santos, Cody, Kagi, Edwards, Romero, Wood and McIntire.*

Brief Summary of Bill

- *Establishes the family leave insurance program.*
- *Provides for payment of benefits of \$250 per week for up to five weeks to employees on unpaid family leave.*
- *Provides for assessment of premiums of 2 cents per hour worked per employee to be paid equally by employers and employees.*

Hearing Date: *2/14/01*

Staff: *Jill Reinmuth (786-7134).*

Background:

Federal and state laws provide that certain employees are entitled to unpaid family and medical leave.

Federal Law: Under the federal Family and Medical Leave Act, eligible employees are entitled to take up to 12 weeks of unpaid leave in a 12-month period for specified family and medical reasons, and to be reinstated to their original jobs or equivalent jobs.

An eligible employee is one who: (1) works for a covered employer; and (2) has worked for the same employer for at least 12 months, and for at least 1,250 hours over the previous 12 months. An eligible employee is not one who works at a location at which the employer employs less than 50 employees if the total number employed within 75 miles of that worksite is less than 50. A covered employer is a private employer that had 50 or more

employees in at least 20 weeks of the current or preceding year.

Leave may be taken for: (1) the birth and care of a child of the employee; (2) the placement of a child with the employee for adoption or foster care; (3) the care of an immediate family member who has a serious health condition; or (4) the serious health condition of the employee that makes the employee unable to work.

State Law: Under the state Family Leave Law, eligible employees are entitled to reinstatement to workplaces within 20 miles of their original workplaces. Employees are also entitled to leave for sickness or temporary disability related to pregnancy or childbirth in addition to leave under federal law. Enforcement of other provisions of the state Family Leave Law is currently suspended.

Summary of Bill:

A new partial wage replacement program, the family leave insurance program, is established. Benefits of \$250 per week for up to five weeks are paid to employees on unpaid family leave. Premiums of 2 cents per hour worked per employee are paid equally by employers and employees. The program is administered by the Department of Labor and Industries.

Family Leave: "Family leave" means leave: (1) to care for a newborn child; (2) to care for a child placed with the employee for adoption or foster care; (3) to care for a child, spouse, or parent of an employee or spouse with a serious health condition; or (4) because of the employee's serious health condition that makes the employee unable to perform his or her job functions.

Eligibility: An individual is eligible to receive benefits if he or she: (1) is employed by an employers subject to unemployment compensation; and (2) has worked 520 hours in employment covered by unemployment compensation during either the first four of the last five calendar quarters or the last four calendar quarters completed before beginning family leave. An employer or a self-employed person not mandatorily covered may elect coverage.

Other Requirements: If leave is foreseeable, the employee is required to provide notice of leave to his or her employer. If leave is to care for a family member with a serious health condition or because of the employee's serious health condition, the employee may be required by the department to support his or her claim with medical certification.

Disqualification: An employee is not disqualified from receiving benefits if there is a strike or lockout where the employee is employed. An employee is disqualified from receiving benefits if the employee made false statements to obtain benefits or, with respect to leave for the employee's own serious health condition, if the condition was intentionally self-inflicted or resulted from perpetration of a gross misdemeanor or felony.

Other Leave and/or Compensation: An employer may require an employee who is receiving benefits to take the leave concurrently with leave under federal, state or local law, with certain exceptions. An employer may not require an employee to exhaust paid leave or disability insurance before receiving benefits. An employee may elect when he or

she uses paid leave. An employee may not receive benefits while entitled to certain workers' compensation benefits or unemployment compensation benefits.

***Benefits:** An eligible employee on unpaid family leave is entitled to receive benefits for a maximum of five weeks in an application year. Initially, the amount of the weekly benefit is \$250. Each year thereafter, the amount of the weekly benefit is adjusted for inflation by the department. The amount of the weekly benefit may be prorated if the employee works part-time or if the employee is on family leave for less than 40 hours in a week. Benefits are payable only to the extent funding is available.*

***Reinstatement:** An eligible employee is entitled to return to the same job or an equivalent position at the end of the period in which he or she receives benefits, with certain exceptions.*

***Premiums:** An employer is required to pay the premium, and is authorized to deduct one-half of the premium from employee wages. Initially the premium is 2 cents per hour worked per employee. Every year thereafter, the amount of the premium is adjusted by the department to ensure that it is at the lowest rate necessary to pay benefits and administrative costs, and maintain actuarial solvency of the program.*

***Penalties:** An employee who receives benefits erroneously or fraudulently must repay the benefits and may be subject to penalties. An employer that fails to make reports or pay premiums required by the department is subject to sanctions, including penalties, interest, and collection procedures.*

***Confidentiality:** Information in an employee's record is not subject to public disclosure, but an employer may review the records of its employee in connection with a pending claim. Information that the department obtains from employers' records for administration of the program is not subject to public disclosure.*

***Discrimination:** An employer or other person may not discriminate against a person for filing a claim for benefits, communicating an intent to file a claim, or testifying or assisting in a proceeding related to a family leave insurance.*

***Dedicated Account:** A dedicated account is established. Premiums and penalties are paid into and benefits are paid out of the account.*

***Applicability:** This program applies to weeks of eligibility that begin on or after January 1, 2002.*

***Rules Authority:** The bill contains provisions requiring the exercise of rule-making powers by the Department of Labor and Industries.*

***Appropriation:** A sum is appropriated for the 2001-03 biennium from the medical aid fund and the accident fund, in equal amounts, to the department for the purposes of administering the family leave insurance program. The sum must be repaid to the medical aid and accident funds from the family leave insurance account by June 30, 2013.*

Fiscal Note: Requested on February 7, 2001.

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