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HOUSE BILL 2399

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Dickerson, Conway, Kagi, Kenney, Kirby, Hudgins, Sullivan, Moeller, Simpson, D., Hunt, Schual-Berke, Rockefeller, McCoy, McDermott, Romero, Chase, Wood, Morrell and Santos

Read first time 01/13/2004. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to family leave insurance; and adding a new chapter  
2 to Title 49 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that, although family  
5 leave laws have assisted individuals to balance the demands of the  
6 workplace with their family responsibilities, more needs to be done to  
7 achieve the goals of work force stability and economic security. In  
8 particular, the legislature finds that many individuals do not have  
9 access to family leave laws, and those who do may not be in a financial  
10 position to take family leave that is unpaid, and that employer-paid  
11 benefits, including family leave and disability benefits, meet only a  
12 relatively small part of this need. The legislature declares it to be  
13 in the public interest to establish a program that: (1) Provides  
14 additional options for individuals to use in balancing work and family  
15 responsibilities; (2) is in addition to those programs offered by  
16 employers; (3) provides limited income support for a reasonable period  
17 while an individual is away from work on family leave; and (4) reduces  
18 the impact on state income support programs by increasing an

1 individual's ability to provide caregiving services for family members  
2 while maintaining an employment relationship.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply  
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Application year" means the twelve-month period beginning on  
6 the first day of the calendar week in which an individual files an  
7 application for family leave insurance benefits and, thereafter, the  
8 twelve-month period beginning with the first day of the calendar week  
9 in which the individual next files an application for family leave  
10 insurance benefits after the expiration of the individual's last  
11 preceding application year.

12 (2) "Calendar quarter" has the meaning provided in RCW 50.04.050.

13 (3) "Child" means a person who is:

14 (a) A biological, adopted, or foster child, a stepchild, a legal  
15 ward, or a child of a person standing in loco parentis; and

16 (b)(i) Under eighteen years of age; or

17 (ii) Eighteen years of age or older and incapable of self-care  
18 because of a mental or physical disability.

19 (4) "Department" means the department of labor and industries.

20 (5) "Director" means the director of the department of labor and  
21 industries.

22 (6) "Domestic partner" means an unmarried person eighteen years of  
23 age or older of the same sex as an unmarried individual who is eighteen  
24 years of age or older and: (a) To whom the individual is unable to be  
25 lawfully married; (b) with whom the individual entered into a close  
26 personal relationship in lieu of lawful marriage when both parties were  
27 mentally competent and has maintained a close personal relationship  
28 solely with that person for a minimum of six continuous months; (c)  
29 with whom the individual shares a regular and permanent residence; (d)  
30 with whom the individual has agreed to be jointly responsible for basic  
31 living expenses incurred during the domestic partnership; and (e) to  
32 whom the individual is not related by blood as would bar marriage.

33 (7) "Employer" means: (a) The same as the definition in RCW  
34 50.04.080; and (b) the state and its political subdivisions.

35 (8) "Employment" has the meaning provided in RCW 50.04.100.

36 (9) "Family leave" means leave from employment:

1 (a) To care for a newborn child or adopted or foster child of the  
2 individual or the individual's spouse or domestic partner when leave is  
3 completed within twelve months after the birth or the placement for  
4 adoption or foster care, as applicable;

5 (b) To care for the individual's family member who has a serious  
6 health condition; or

7 (c) Because of the individual's serious health condition that makes  
8 the individual unable to perform the functions of the individual's  
9 position.

10 (10) "Family leave insurance benefits" means the benefits payable  
11 under sections 6 and 7 of this act.

12 (11) "Family member" means a child, spouse or domestic partner, or  
13 the parent of the individual or individual's spouse or domestic  
14 partner.

15 (12) "Health care provider" means a person licensed as a physician  
16 under chapter 18.71 RCW or an osteopathic physician and surgeon under  
17 chapter 18.57 RCW.

18 (13) "Parent" means a biological or adoptive parent, a stepparent,  
19 or an individual who stood in loco parentis to an individual or an  
20 individual's spouse or domestic partner when the individual or  
21 individual's spouse or domestic partner was a child.

22 (14) "Premium" or "premiums" means taxes, which are the money  
23 payments required by this chapter to be made to the department for the  
24 family leave insurance account under section 22 of this act.

25 (15) "Qualifying year" means the first four of the last five  
26 completed calendar quarters or the last four completed calendar  
27 quarters immediately preceding the first day of the individual's  
28 application year.

29 (16) "Regularly working" means the average number of hours per work  
30 week that an individual worked in the two quarters of the individual's  
31 qualifying year in which total wages were highest.

32 (17) "Serious health condition" means an illness, injury,  
33 impairment, or physical or mental condition that involves a period of  
34 incapacity or treatment connected with inpatient care, such as an  
35 overnight stay, in a hospital, hospice, or residential medical care  
36 facility, and a period of incapacity or subsequent treatment or  
37 recovery in connection with such inpatient care; or that involves  
38 continuing treatment by or under the supervision of a health care

1 provider or a provider of health care services and which includes a  
2 period of incapacity, such as an inability to work, attend school, or  
3 perform other regular daily activities.

4 (18) "Unpaid family leave" means family leave for which the  
5 individual receives no cash remuneration from the employer from whom  
6 leave is taken.

7 NEW SECTION. **Sec. 3.** (1) The department shall establish and  
8 administer a family leave insurance program and pay family leave  
9 insurance benefits as specified in this chapter.

10 (2) The department shall establish procedures and forms for filing  
11 claims for benefits under this chapter. The department shall notify  
12 the employer within two business days of a claim being filed under  
13 section 4 of this act.

14 (3) The department may require that a claim for benefits under this  
15 chapter be supported by a certification issued by the health care  
16 provider providing health care to the individual or individual's family  
17 member, as applicable.

18 (4) Information contained in the files and records pertaining to an  
19 individual under this chapter are confidential and not open to public  
20 inspection, other than to public employees in the performance of their  
21 official duties. However, the individual or an authorized  
22 representative of an individual may review the records or receive  
23 specific information from the records on the presentation of the signed  
24 authorization of the individual. An employer or the employer's duly  
25 authorized representative may review the records of an individual  
26 employed by the employer in connection with a pending claim. At the  
27 department's discretion, other persons may review records when such  
28 persons are rendering assistance to the department at any stage of the  
29 proceedings on any matter pertaining to the administration of this  
30 chapter.

31 NEW SECTION. **Sec. 4.** Beginning on July 3, 2005, family leave  
32 insurance benefits are payable to an individual during a period in  
33 which the individual is on unpaid family leave if the individual:

34 (1) Files a claim for benefits as required by rules adopted by the  
35 director;

1 (2) Has been employed for at least six hundred eighty hours in  
2 employment during the individual's qualifying year;

3 (3) Establishes an application year. An application year may not  
4 be established if the qualifying year includes hours worked before  
5 establishment of a previous application year;

6 (4) Consents to the disclosure of information or records deemed  
7 private and confidential under chapter 50.13 RCW. Initial disclosure  
8 of this information and these records by the employment security  
9 department to the department is solely for purposes related to the  
10 administration of this chapter. Further disclosure of this information  
11 or these records is subject to sections 3(4) and 13(2)(b) of this act;

12 (5) Discloses whether or not he or she owes child support  
13 obligations as defined in RCW 50.40.050; and

14 (6) Documents that he or she has provided the employer from whom  
15 family leave is to be taken with written notice of the individual's  
16 intention to take family leave as follows:

17 (a) If the necessity for family leave defined in section 2(9)(a) of  
18 this act was foreseeable based on an expected birth or placement,  
19 notice was given at least thirty days before the family leave was to  
20 begin, stating the anticipated starting date and ending date of the  
21 family leave. However, if the date of birth or placement required  
22 family leave to begin in less than thirty days, as much notice as  
23 practicable was given; and

24 (b) If the necessity for family leave defined in section 2(9) (b)  
25 or (c) of this act was foreseeable based on planned medical treatment:

26 (i) Notice was given at least thirty days before the family leave  
27 was to begin, stating the anticipated starting date and ending date of  
28 the family leave. However, if the date of the treatment required  
29 family leave to begin in less than thirty days, as much notice as  
30 practicable was given; and

31 (ii) The individual made reasonable efforts to schedule the  
32 treatment so as not to disrupt unduly the operations of the employer,  
33 subject to the approval of the health care provider of the individual  
34 or family member, as applicable.

35 NEW SECTION. **Sec. 5.** An individual is disqualified from family  
36 leave insurance benefits beginning with the first day of the calendar

1 week, and continuing for the next fifty-two consecutive weeks, in which  
2 the individual:

3 (1) Willfully made a false statement or misrepresentation regarding  
4 a material fact, or willfully failed to report a material fact, to  
5 obtain benefits under this chapter; or

6 (2) With respect to family leave defined in section 2(9)(c) of this  
7 act is suffering from:

8 (a) A willful and intentional self-inflicted serious health  
9 condition; or

10 (b) A serious health condition resulting from the individual's  
11 perpetration of a gross misdemeanor or felony.

12 NEW SECTION. **Sec. 6.** (1) The maximum number of weeks during which  
13 family leave insurance benefits are payable in an application year is  
14 five weeks. However, benefits are not payable during a waiting period  
15 consisting of the first five work days of family leave taken in an  
16 application year with respect to a particular type of family leave,  
17 whether the first five work days of family leave are employer paid or  
18 unpaid.

19 (2)(a) The first payment of benefits must be made to an individual  
20 within two weeks after the claim is filed or the family leave began,  
21 whichever is later, and subsequent payments must be made semimonthly  
22 thereafter.

23 (b) If an individual dies before he or she receives a payment of  
24 benefits, the payment shall be made to the surviving spouse or the  
25 child or children if there is no surviving spouse. If there is no  
26 surviving spouse and no child or children, the payment shall be made by  
27 the department and distributed consistent with the terms of the  
28 decedent's will or, if the decedent dies intestate, consistent with the  
29 terms of RCW 11.04.015.

30 (3) Benefits are not payable and waiting period credits are not  
31 earned under this chapter for any weeks in which compensation is paid  
32 or payable to the individual under Title 50 RCW or similar law of  
33 another state or the United States, or under RCW 51.32.060 or 51.32.090  
34 or another state or federal workers' compensation law.

35 NEW SECTION. **Sec. 7.** The amount of family leave insurance  
36 benefits shall be determined as follows:

1 (1) For weeks of family leave beginning before January 1, 2006, the  
2 weekly benefit shall be two hundred fifty dollars per week for an  
3 individual who at the time of beginning family leave was regularly  
4 working forty hours or more per week. By December 31, 2006, and by  
5 each subsequent December 31st, the department shall calculate to the  
6 nearest dollar an adjusted maximum weekly benefit to account for  
7 inflation using the consumer price index for urban wage earners and  
8 clerical workers, CPI-W, or a successor index, for the twelve completed  
9 calendar months before each December 31st as calculated by the United  
10 States department of labor. The adjusted maximum weekly benefit takes  
11 effect for weeks of family leave beginning after the relevant December  
12 31st.

13 (2) If an individual who at the time of beginning family leave was  
14 regularly working forty hours or more per week is on family leave for  
15 less than forty hours but at least eight hours in a week, the  
16 individual's weekly benefit shall be .025 times the maximum weekly  
17 benefit times the number of hours of family leave taken in the week.  
18 Benefits are not payable for less than eight hours of family leave  
19 taken in a week.

20 (3) For an individual who at the time of beginning family leave was  
21 regularly working less than forty hours per week, the department shall  
22 calculate a prorated schedule for a weekly benefit amount and a minimum  
23 number of hours of family leave that must be taken in a week for  
24 benefits to be payable, with the prorated schedule based on the amounts  
25 and the calculations specified under subsections (1) and (2) of this  
26 section.

27 (4) If an individual discloses that he or she owes child support  
28 obligations under section 4 of this act and the department determines  
29 that the individual is eligible for benefits, the department shall  
30 notify the applicable state or local child support enforcement agency  
31 and deduct and withhold an amount from benefits in a manner consistent  
32 with RCW 50.40.050.

33 (5) If an individual elects to have federal income tax deducted and  
34 withheld from benefits, the department shall deduct and withhold the  
35 amount specified in the federal internal revenue code in a manner  
36 consistent with section 8 of this act.

1        NEW SECTION.    **Sec. 8.**    (1) The department must advise an individual  
2 filing a new claim for family leave insurance benefits, at the time of  
3 filing such claim, that:

4            (a) Benefits are subject to federal income tax;

5            (b) Requirements exist pertaining to estimated tax payments;

6            (c) The individual may elect to have federal income tax deducted  
7 and withheld from the individual's payment of benefits at the amount  
8 specified in the federal internal revenue code; and

9            (d) The individual is permitted to change a previously elected  
10 withholding status.

11           (2) Amounts deducted and withheld from benefits must remain in the  
12 family leave insurance account until transferred to the federal taxing  
13 authority as a payment of income tax.

14           (3) The director shall follow all procedures specified by the  
15 federal internal revenue service pertaining to the deducting and  
16 withholding of income tax.

17        NEW SECTION.    **Sec. 9.**    If family leave insurance benefits are paid  
18 erroneously or as a result of fraud, or if a claim for family leave  
19 benefits is rejected after benefits are paid, RCW 51.32.240 shall  
20 apply, except that appeals are governed by section 14 of this act, and  
21 the department shall seek repayment of benefits from the recipient.

22        NEW SECTION.    **Sec. 10.**    During a period in which an individual  
23 receives family leave insurance benefits under this chapter, the  
24 individual is entitled to unpaid family leave and, at the established  
25 ending date of leave, to be reinstated in his or her position with the  
26 employer from whom leave was taken subject to the following:

27           (1)(a) An employer may require that family leave for which an  
28 individual is receiving or received family leave insurance benefits  
29 under this chapter be taken concurrently with leave under the federal  
30 family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107  
31 Stat. 6), chapter 49.78 RCW, or other applicable federal, state, or  
32 local law, except that:

33           (i) Family leave taken for sickness or temporary disability because  
34 of pregnancy or childbirth is in addition to leave under the federal  
35 family and medical leave act of 1993, chapter 49.78 RCW, or other  
36 applicable federal, state, or local law.



1 (ii) Family leave during which the individual is receiving or  
2 received family leave insurance benefits under this chapter is in  
3 addition to leave from employment during which benefits are paid or are  
4 payable under RCW 51.32.060 or 51.32.090 or another state or federal  
5 workers' compensation law and that is designated as leave under the  
6 federal family and medical leave act of 1993, chapter 49.78 RCW, or  
7 other applicable federal, state, or local law.

8 (b) If an employer requires that family leave for which an  
9 individual is receiving or received benefits under this chapter be  
10 taken concurrently with leave under the federal family and medical  
11 leave act of 1993, chapter 49.78 RCW, or other applicable federal,  
12 state, or local law, the employer must give all individuals in its  
13 employ written notice of the requirement.

14 (2)(a) If the individual is entitled, on return from family leave  
15 under this chapter, to reinstatement under the federal family and  
16 medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6),  
17 chapter 49.78 RCW, or other applicable federal, state, or local law,  
18 other than this chapter, reinstatement is required as provided under  
19 the applicable law most favorable to the individual.

20 (b)(i) If the individual is not entitled to reinstatement on return  
21 from family leave under (a) of this subsection, the individual is  
22 entitled, upon return from leave under this chapter, to be reinstated:

23 (A) In the same position held by the individual when the leave  
24 commenced;

25 (B) In a position with equivalent benefits and pay at a workplace  
26 within twenty miles of the individual's workplace when leave commenced;  
27 or

28 (C) If the employer's circumstances have so changed that the  
29 individual cannot be reinstated in the same position, or a position of  
30 equivalent pay and benefits, the individual shall be reinstated in any  
31 other position which is vacant and for which the individual is  
32 qualified.

33 (ii) The entitlement under this subsection (2)(b) is subject to  
34 bona fide changes in compensation or work duties, and does not apply  
35 if:

36 (A) The individual's position is eliminated by a bona fide  
37 restructuring or reduction-in-force;

1 (B) The individual's workplace is permanently or temporarily shut  
2 down for at least thirty days;

3 (C) The individual's workplace is moved to a location at least  
4 sixty miles from the location of the workplace when leave commenced;

5 (D) An individual on family leave takes another job; or

6 (E) The individual fails to return on the established ending date  
7 of leave.

8 (3) An individual who has been on unpaid family leave while  
9 receiving family leave insurance benefits under this chapter shall not  
10 lose any employment benefit, including seniority or pension rights,  
11 accrued before the date that family leave commenced. However, this  
12 chapter does not entitle an individual to accrue employment benefits  
13 during a period of family leave or to a right, benefit, or position of  
14 employment other than a right, benefit, or position to which the  
15 individual would have been entitled had the individual not taken family  
16 leave.

17 (4) This section shall be enforced as provided in RCW 49.78.005(2).

18 NEW SECTION. **Sec. 11.** (1) This chapter does not limit an  
19 individual's right to leave from employment under other laws or  
20 employer policy, as applicable, except as provided in this chapter.

21 (2) If an employer provides paid family leave through disability  
22 insurance or any other means, the individual may elect whether first to  
23 use the paid family leave or to receive family leave insurance benefits  
24 under this chapter. An individual may not be required to use the  
25 individual's paid family leave to which the individual is otherwise  
26 entitled before receiving benefits under this chapter.

27 NEW SECTION. **Sec. 12.** (1) An employer of individuals not covered  
28 by this chapter or a self-employed person, including a sole proprietor,  
29 partner, or joint venturer, may elect coverage under this chapter for  
30 all individuals in its employ for an initial period of not less than  
31 three years or a subsequent period of not less than one year  
32 immediately following another period of coverage. The employer or  
33 self-employed person must file a notice of election in writing with the  
34 director, as required by the department. The election becomes  
35 effective on the date of filing the notice.

1 (2) An employer or self-employed person who has elected coverage  
2 may withdraw from coverage within thirty days after the end of the  
3 three-year period of coverage, or at such other times as the director  
4 may prescribe by rule, by filing written notice with the director, such  
5 withdrawal to take effect not sooner than thirty days after filing the  
6 notice.

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

14 NEW SECTION. **Sec. 13.** (1) In the form and at the times specified  
15 by the director, an employer shall make reports, furnish information,  
16 and remit premiums as required by section 20 of this act to the  
17 department. If the employer is a temporary help company that provides  
18 employees on a temporary basis to its customers, the temporary help  
19 company is considered the employer for purposes of this section.  
20 However, if the temporary help company fails to remit the required  
21 premiums, the customer to whom the employees were provided is liable  
22 for paying the premiums.

23 (2)(a) An employer must keep at his or her place of business a  
24 record of employment from which the information needed by the  
25 department for purposes of this chapter may be obtained. This record  
26 shall at all times be open to the inspection of the director or  
27 department employees designated by the director.

28 (b) Information obtained from employer records under this chapter  
29 is confidential and not open to public inspection, other than to public  
30 employees in the performance of their official duties. However, an  
31 interested party shall be supplied with information from employer  
32 records to the extent necessary for the proper presentation of the case  
33 in question. An employer may authorize inspection of its records by  
34 written consent.

35 (3) An employer is subject to the requirements relating to the  
36 assessment and collection of industrial insurance premiums under Title

1 51 RCW, including but not limited to penalties, interest, and  
2 department lien rights and collection remedies if the employer:

3 (a) Fails under this chapter to make the required reports, or fails  
4 to remit the full amount of the premiums when due; or

5 (b) Willfully makes a false statement or misrepresentation  
6 regarding a material fact, or willfully fails to report a material  
7 fact, to avoid making the required reports or remitting the full amount  
8 of the premiums when due under this chapter.

9 (4) Notwithstanding subsection (3) of this section, appeals are  
10 governed by section 14 of this act.

11 NEW SECTION. **Sec. 14.** (1) A person aggrieved by a decision of the  
12 department under this chapter must file a notice of appeal with the  
13 director, by mail or personally, within thirty days after the date on  
14 which a copy of the department's decision was communicated to the  
15 person. Upon receipt of the notice of appeal, the director shall  
16 request the assignment of an administrative law judge in accordance  
17 with chapter 34.05 RCW to conduct a hearing and issue a proposed  
18 decision and order. The hearing shall be conducted in accordance with  
19 chapter 34.05 RCW.

20 (2) The administrative law judge's proposed decision and order  
21 shall be final and not subject to further appeal unless, within thirty  
22 days after the decision is communicated to the interested parties, a  
23 party petitions for review by the director. If the director's review  
24 is timely requested, the director may order additional evidence by the  
25 administrative law judge. On the basis of the evidence before the  
26 administrative law judge and such additional evidence as the director  
27 may order to be taken, the director shall render a decision affirming,  
28 modifying, or setting aside the administrative law judge's decision.  
29 The director's decision becomes final and not subject to further appeal  
30 unless, within thirty days after the decision is communicated to the  
31 interested parties, a party files a petition for judicial review as  
32 provided in chapter 34.05 RCW. The director is a party to any judicial  
33 action involving the director's decision and shall be represented in  
34 the action by the attorney general.

35 (3) If an appeal involves the right of an individual to family  
36 leave insurance benefits under this chapter, the parties shall be

1 afforded an opportunity for hearing within seven days of the appeal  
2 being filed with the director.

3 NEW SECTION. **Sec. 15.** If, upon administrative or judicial review,  
4 the decision of the department is reversed or modified, the  
5 administrative law judge or the court in its discretion may award  
6 reasonable attorneys' fees and costs to the prevailing party.  
7 Attorneys' fees and costs owed by the department, if any, are payable  
8 from the family leave insurance account.

9 NEW SECTION. **Sec. 16.** An employer, temporary help company,  
10 employment agency, employee organization, or other person may not  
11 discharge, expel, or otherwise discriminate against a person because he  
12 or she has filed or communicated to the employer an intent to file a  
13 claim, a complaint, or an appeal, or has testified or is about to  
14 testify or has assisted in any proceeding, under this chapter. This  
15 section shall be enforced as provided in RCW 51.48.025.

16 NEW SECTION. **Sec. 17.** (1) This chapter is not intended to  
17 discourage employers from adopting or retaining policies that provide  
18 additional benefits to individuals to address family leave needs.

19 (2) This chapter is not to be construed to diminish an employer's  
20 obligation to comply with a collective bargaining agreement or an  
21 employment benefit program or plan that provides greater benefits to  
22 individuals than the family leave insurance benefits provided under  
23 this chapter.

24 (3) An agreement by an individual to waive his or her rights under  
25 this chapter is void as against public policy.

26 (4) The benefits provided to individuals under this chapter may not  
27 be diminished by a collective bargaining agreement or an employment  
28 benefit program or plan entered into or renewed after the effective  
29 date of this section.

30 NEW SECTION. **Sec. 18.** (1) Family leave insurance benefits are  
31 payable under this chapter only to the extent provided in sections 6  
32 and 7 of this act and only to the extent that money is available in the  
33 family leave insurance account for this purpose. Neither the state nor  
34 the department is liable for any amount in excess of these limits.

1 (2) This chapter does not create a continuing entitlement or  
2 contractual right. The legislature reserves the right to amend or  
3 repeal all or part of this chapter at any time, and a benefit or other  
4 right granted under this chapter exists subject to the legislature's  
5 power to amend or repeal this chapter. There is no vested private  
6 right of any kind against such amendment or repeal.

7 NEW SECTION. **Sec. 19.** The director may adopt rules as necessary  
8 to implement this chapter. In adopting rules, the director shall  
9 maintain consistency with the rules adopted to implement the federal  
10 family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107  
11 Stat. 6), to the extent such rules are not in conflict with this  
12 chapter.

13 NEW SECTION. **Sec. 20.** (1)(a) Except as provided in this section,  
14 beginning on January 1, 2005, each employer shall retain from the  
15 earnings of each individual a premium of one cent per hour worked, up  
16 to a maximum of forty hours per week. The employer shall match the  
17 amount retained by an equal amount, and the money retained shall be  
18 paid to the department in the manner and at such intervals as the  
19 department directs for deposit in the family leave insurance account.  
20 In the payment of premiums, a fractional part of a cent shall be  
21 disregarded unless it amounts to one-half cent or more, in which case  
22 it shall be increased to one cent.

23 (b) The director shall adjust the amount of the premium from time  
24 to time to ensure that the amount is the lowest rate necessary to pay  
25 family leave insurance benefits and administrative costs, and maintain  
26 actuarial solvency in accordance with recognized insurance principles,  
27 of the family leave insurance program on a current basis.

28 (2) The state apprenticeship council shall pay the entire amount  
29 required to be remitted for the family leave insurance account to the  
30 department for registered apprentices or trainees during their  
31 participation in supplemental and related instruction classes.

32 (3) None of the amount assessed for the family leave insurance  
33 account may be retained from the earnings of individuals covered under  
34 RCW 51.16.210.

35 (4) The department may adopt rules to permit an individual with

1 multiple employers and their employers to petition for refunds or  
2 credits of amounts paid to the department for hours in excess of forty  
3 hours per week worked by the individual.

4 NEW SECTION. **Sec. 21.** (1) When an employer quits business, or  
5 sells out, exchanges, or otherwise disposes of the employer's business  
6 or stock of goods, any premium payable under this chapter is  
7 immediately due and payable, and the employer must, within ten days  
8 thereafter, make a return and pay the premium due. Any person who  
9 becomes a successor to the business is liable for the full amount of  
10 the premium and must withhold from the purchase price a sum sufficient  
11 to pay any premium due from the employer until the employer produces a  
12 receipt from the department showing payment in full of any premium due  
13 or a certificate that no premium is due and, if the premium is not paid  
14 by the employer within ten days from the date of the sale, exchange, or  
15 disposal, the successor is liable for the payment of the full amount of  
16 the premium. The successor's payment thereof is a payment upon the  
17 purchase price, and if the payment is greater than the purchase price,  
18 the amount of the difference is a debt due the successor from the  
19 employer.

20 (2) A successor is not liable for any premium due from the person  
21 from whom the successor has acquired a business or stock of goods if  
22 the successor gives written notice to the department of the acquisition  
23 and no assessment is issued by the department within one hundred eighty  
24 days of receipt of the notice against the former operator of the  
25 business and a copy thereof mailed to the successor.

26 NEW SECTION. **Sec. 22.** The family leave insurance account is  
27 created in the custody of the state treasurer. All receipts from the  
28 premium imposed under section 20 of this act or the penalties imposed  
29 under section 13 of this act must be deposited in the account.  
30 Expenditures from the account may be used only for the purposes of the  
31 family leave insurance program. Only the director or the director's  
32 designee may authorize expenditures from the account. The account is  
33 subject to the allotment procedures under chapter 43.88 RCW, but an  
34 appropriation is not required for benefit payments.

1        NEW SECTION.    **Sec. 23.**    The director shall lend . . . . . dollars  
2        from the supplemental pension account to the family leave insurance  
3        account. These loaned funds may be expended solely for the purposes of  
4        administering the family leave insurance program under this chapter.  
5        The director shall repay the supplemental pension fund, plus its  
6        proportionate share of earnings from investment of moneys in the  
7        supplemental pension fund during the loan period, from the family leave  
8        insurance account by . . . . .

9        NEW SECTION.    **Sec. 24.**    If any provision of this act or its  
10       application to any person or circumstance is held invalid, the  
11       remainder of the act or the application of the provision to other  
12       persons or circumstances is not affected.

13       NEW SECTION.    **Sec. 25.**    Sections 1 through 24 of this act  
14       constitute a new chapter in Title 49 RCW.

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