
SUBSTITUTE HOUSE BILL 1173

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Dickerson, Conway, Wood, Green, Cody, Williams, Simpson, Hudgins, Campbell, McCoy, Ericks, Hunt, Blake, Roberts, Fromhold, Sells, Moeller, Appleton, Darneille, Morrell, Schual-Berke, Chase, Kenney, Takko, Hasegawa, Kagi, Ormsby, Haigh and Santos)

READ FIRST TIME 03/07/05.

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 family care, work force stability, and economic
8 security. In particular, the legislature finds that many individuals
9 do not have access to family leave laws, and those who do may not be in
10 a financial position to take family leave that is unpaid, and that
11 employer-paid benefits, including family leave and disability benefits,
12 meet only a relatively small part of this need. The legislature
13 declares it to be in the public interest to establish a program that:
14 (1) Allows parents to bond with a newborn or newly placed child, and
15 workers to care for seriously ill family members; (2) is in addition to
16 those programs offered by employers whether voluntary or required by
17 federal or state family leave laws; (3) provides limited income support
18 for a reasonable period while an individual is away from work on family

1 leave; and (4) reduces the impact on state income support programs by
2 increasing an individual's ability to provide caregiving services for
3 family members while maintaining an employment relationship.

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

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

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

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

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

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

18 (ii) Eighteen years of age or older and incapable of self-care
19 because of a mental or physical disability, whether permanent or
20 temporary.

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

22 (5) "Director" means the director of the department of labor and
23 industries.

24 (6) "Employer" means: (a) The same as the definition in RCW
25 50.04.080; and (b) the state and its political subdivisions.

26 (7) "Employment" has the meaning provided in RCW 50.04.100.

27 (8) "Family leave" means leave from employment:

28 (a) To care for a newborn child or adopted or foster child of the
29 individual or the individual's spouse when leave is completed within
30 twelve months after the birth or the placement for adoption or foster
31 care, as applicable; or

32 (b) To care for the individual's family member who has a serious
33 health condition.

34 (9) "Family leave insurance benefits" means the benefits payable
35 under sections 6 and 7 of this act.

36 (10) "Family member" means a child, spouse, or the parent of the
37 individual or individual's spouse.

1 (11) "Health care provider" means: (a) A person licensed as a
2 physician under chapter 18.71 RCW; (b) an osteopathic physician and
3 surgeon under chapter 18.57 RCW; or (c) any other person determined by
4 the director to be capable of providing health care services.

5 (12) "Parent" means a biological or adoptive parent, a stepparent,
6 or an individual who stood in loco parentis to an individual or an
7 individual's spouse when the individual or individual's spouse was a
8 child.

9 (13) "Premium" or "premiums" means payments required by this
10 chapter to be made to the department for the family leave insurance
11 account under section 20 of this act.

12 (14) "Qualifying year" means the first four of the last five
13 completed calendar quarters or the last four completed calendar
14 quarters immediately preceding the first day of the individual's
15 application year.

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

19 (16) "Serious health condition" means:

20 (a) An illness, injury, impairment, or physical or mental condition
21 that involves:

22 (i) A period of incapacity or treatment connected with inpatient
23 care, such as an overnight stay, in a hospital, hospice, or residential
24 medical care facility, and a period of incapacity or subsequent
25 treatment or recovery in connection with such inpatient care; or

26 (ii) Continuing treatment by or under the supervision of a health
27 care provider or a provider of health care services and which includes
28 a period of incapacity, such as an inability to work, attend school, or
29 perform other regular daily activities; and

30 (b) The period of such incapacity or continuing treatment is
31 expected to exceed the waiting period specified in section 6 of this
32 act over the course of the application year.

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

36 (2) The department shall establish procedures and forms for filing

1 claims for benefits under this chapter. The department shall notify
2 the employer within five business days of a claim being filed under
3 section 4 of this act.

4 (3) The department may require that a claim for benefits under this
5 chapter be supported by a certification issued by the health care
6 provider providing health care to the individual's family member.

7 (4) The employment security department shall disclose relevant
8 information and records, and the department shall use information
9 sharing and integration technology to facilitate such disclosure, so
10 long as an individual consents to such disclosure as required under
11 section 4(4) of this act.

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

25 (6) The department shall develop and implement an outreach program
26 to ensure that individuals who may be eligible to receive family leave
27 insurance benefits under this chapter are made aware of these benefits.
28 Outreach information shall explain, in an easy to understand format,
29 eligibility requirements, the claims process, weekly benefit amounts,
30 maximum benefits payable, notice and medical certification
31 requirements, reinstatement and nondiscrimination rights,
32 confidentiality, and the relationship between benefits under this
33 chapter and other leave rights and benefits. Outreach information
34 shall be available in English and other primary languages as defined in
35 RCW 74.04.025.

36 NEW SECTION. **Sec. 4.** Beginning September 3, 2006, family leave

1 insurance benefits are payable to an individual during a period in
2 which the individual is on family leave if the individual:

3 (1) Files a claim for benefits in each week in which the individual
4 is on family leave, and as required by rules adopted by the director;

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

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

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

16 (5) Discloses whether or not he or she owes child support
17 obligations as defined in RCW 50.40.050;

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

21 (a) If the necessity for family leave defined in section 2(8)(a) of
22 this act was foreseeable based on an expected birth or placement,
23 notice was given at least thirty days before the family leave was to
24 begin, stating the anticipated starting date and ending date of the
25 family leave. However, if the date of birth or placement required
26 family leave to begin in less than thirty days or if the date of birth
27 or placement required family leave to be changed or extended, as much
28 notice as practicable was given;

29 (b) If the necessity for family leave defined in section 2(8)(b) of
30 this act was foreseeable based on planned medical treatment:

31 (i) Notice was given at least thirty days before the family leave
32 was to begin, stating the anticipated starting date and ending date of
33 the family leave. However, if the date of the treatment required
34 family leave to begin in less than thirty days or if the date of the
35 treatment required family leave to be changed or extended, as much
36 notice as practicable was given; and

37 (ii) The individual made reasonable efforts to schedule the

1 treatment so as not to disrupt unduly the operations of the employer,
2 subject to the approval of the health care provider of the family
3 member, as applicable; and

4 (c) If the necessity for family leave defined in section 2(8) (a)
5 or (b) of this act is not foreseeable, the employee must give notice to
6 the employer of the need for leave as soon as practicable under the
7 facts and circumstances of the case, stating the anticipated starting
8 and ending date of the family leave. It is expected that an employee
9 will give notice to the employer within no more than one or two working
10 days of learning of the need for leave, except in the extraordinary
11 circumstances where such notice is not feasible; and

12 (7) Is not receiving benefits under the unemployment compensation,
13 industrial insurance, or crime victims' compensation laws of this
14 state, any other state, or the United States.

15 NEW SECTION. **Sec. 5.** An individual is disqualified from family
16 leave insurance benefits beginning with the first day of the calendar
17 week, and continuing for the next fifty-two consecutive weeks, in which
18 the individual willfully made a false statement or misrepresentation
19 regarding a material fact, or willfully failed to report a material
20 fact, to obtain benefits under this chapter.

21 NEW SECTION. **Sec. 6.** (1) The maximum number of weeks during which
22 family leave insurance benefits are payable in an application year is
23 five weeks. However, benefits are not payable during a waiting period
24 consisting of the first five work days of family leave taken in an
25 application year with respect to a particular type of family leave,
26 whether the first five work days of family leave are employer paid or
27 unpaid.

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

32 (b) The payment of benefits under this chapter shall not be
33 considered a binding determination of the obligations of the department
34 under this chapter. The acceptance of compensation by the individual
35 shall likewise not be considered a binding determination of his or her
36 rights under this chapter. Whenever any payment of benefits under this

1 chapter has been made and timely appeal therefrom has been made where
2 the final decision is that the payment was improper, the individual
3 shall repay it and recoupment may be made from any future payment due
4 to the individual on any claim under this chapter. The director may
5 exercise his or her discretion to waive, in whole or in part, the
6 amount of any such payments where the recovery would be against equity
7 and good conscience.

8 (c) If an individual dies before he or she receives a payment of
9 benefits, the payment shall be made to the surviving spouse, or the
10 child or children if there is no surviving spouse. If there is no
11 surviving spouse, and no child or children, the payment shall be made
12 by the department and distributed consistent with the terms of the
13 decedent's will or, if the decedent dies intestate, consistent with the
14 terms of RCW 11.04.015.

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

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

22 (1) For weeks of family leave beginning before July 1, 2007, the
23 weekly benefit shall be two hundred fifty dollars per week for an
24 individual who at the time of beginning family leave was regularly
25 working forty hours or more per week. By June 30, 2007, and by each
26 subsequent June 30th, the department shall calculate to the nearest
27 dollar an adjusted maximum weekly benefit to account for inflation
28 using the consumer price index for urban wage earners and clerical
29 workers, CPI-W, or a successor index, for the twelve completed calendar
30 months before each June 30th as calculated by the United States
31 department of labor. The adjusted maximum weekly benefit takes effect
32 for weeks of family leave beginning after the relevant June 30th.

33 (2) If an individual who at the time of beginning family leave was
34 regularly working forty hours or more per week is on family leave for
35 less than forty hours but at least eight hours in a week, the
36 individual's weekly benefit shall be .025 times the maximum weekly

1 benefit times the number of hours of family leave taken in the week.
2 Benefits are not payable for less than eight hours of family leave
3 taken in a week.

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

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

17 (5) If the internal revenue service determines that family leave
18 insurance benefits under this chapter are subject to federal income tax
19 and an individual elects to have federal income tax deducted and
20 withheld from benefits, the department shall deduct and withhold the
21 amount specified in the federal internal revenue code in a manner
22 consistent with section 8 of this act.

23 NEW SECTION. **Sec. 8.** (1) If the internal revenue service
24 determines that family leave insurance benefits under this chapter are
25 subject to federal income tax, the department must advise an individual
26 filing a new claim for family leave insurance benefits, at the time of
27 filing such claim, that:

28 (a) The internal revenue service has determined that benefits are
29 subject to federal income tax;

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

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

34 (d) The individual is permitted to change a previously elected
35 withholding status.

36 (2) Amounts deducted and withheld from benefits must remain in the

1 family leave insurance account until transferred to the federal taxing
2 authority as a payment of income tax.

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

6 NEW SECTION. **Sec. 9.** If family leave insurance benefits are paid
7 erroneously or as a result of willful misrepresentation, or if a claim
8 for family leave benefits is rejected after benefits are paid, RCW
9 51.32.240 shall apply, except that appeals are governed by section 14
10 of this act, penalties are paid into the family leave insurance
11 account, and the department shall seek repayment of benefits from the
12 recipient.

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

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

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

28 (ii) Family leave during which the individual is receiving or
29 received family leave insurance benefits under this chapter is in
30 addition to leave from employment during which benefits are paid or are
31 payable under RCW 51.32.060 or 51.32.090 or another state or federal
32 workers' compensation law and that is designated as leave under the
33 federal family and medical leave act of 1993, chapter 49.78 RCW, or
34 other applicable federal, state, or local law.

35 (b) If an employer requires that family leave for which an
36 individual is receiving or received benefits under this chapter be

1 taken concurrently with leave under the federal family and medical
2 leave act of 1993, chapter 49.78 RCW, or other applicable federal,
3 state, or local law, the employer must give all individuals in its
4 employ written notice of the requirement.

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

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

14 (A) In the same position held by the individual when the leave
15 commenced;

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

19 (C) If the employer's circumstances have so changed that the
20 individual cannot be reinstated in the same position, or a position of
21 equivalent pay and benefits, the individual shall be reinstated in any
22 other position which is vacant and for which the individual is
23 qualified.

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

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

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

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

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

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

36 (3) An individual who has been on family leave while receiving
37 family leave insurance benefits under this chapter shall not lose any
38 employment benefit, including seniority or pension rights, accrued

1 before the date that family leave commenced. However, this chapter
2 does not entitle an individual to accrue employment benefits during a
3 period of family leave or to a right, benefit, or position of
4 employment other than a right, benefit, or position to which the
5 individual would have been entitled had the individual not taken family
6 leave.

7 (4) The department shall enforce this section under RCW 49.78.140
8 through 49.78.190.

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

13 (2) If an employer provides paid family leave through any means,
14 the individual may elect whether first to use the paid family leave or
15 to receive family leave insurance benefits under this chapter. An
16 individual may not be required to use the individual's paid family
17 leave to which the individual is otherwise entitled before receiving
18 benefits under this chapter.

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

28 (2) An employer or self-employed person who has elected coverage
29 may withdraw from coverage within thirty days after the end of the
30 three-year period of coverage, or at such other times as the director
31 may prescribe by rule, by filing written notice with the director, such
32 withdrawal to take effect not sooner than thirty days after filing the
33 notice. Within five days of filing written notice of the withdrawal
34 with the director, an employer must provide written notice of the
35 withdrawal to all individuals in the employer's employ.

1 (3) The department may cancel elective coverage if the employer or
2 self-employed person fails to make required payments or reports. The
3 department may collect due and unpaid premiums and may levy an
4 additional premium for the remainder of the period of coverage. The
5 cancellation shall be effective no later than thirty days from the date
6 of the notice in writing advising the employer or self-employed person
7 of the cancellation. Within five days of receiving written notice of
8 the cancellation from the director, an employer must provide written
9 notice of the cancellation to all individuals in the employer's employ.

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

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

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

31 (3) The requirements relating to the assessment and collection of
32 family leave insurance premiums are the same as the requirements
33 relating to the assessment and collection of industrial insurance
34 premiums under Title 51 RCW, including but not limited to penalties,
35 interest, and department lien rights and collection remedies. These
36 requirements apply to:

1 (a) An employer that fails under this chapter to make the required
2 reports, or fails to remit the full amount of the premiums when due;

3 (b) An employer that willfully makes a false statement or
4 misrepresentation regarding a material fact, or willfully fails to
5 report a material fact, to avoid making the required reports or
6 remitting the full amount of the premiums when due under this chapter;

7 (c) A public entity that engages in work or lets a contract for
8 work, in the manner specified in RCW 51.12.050;

9 (d) A person, firm, or corporation who lets a contract for work, in
10 the manner specified in RCW 51.12.070;

11 (e) A successor, as defined in RCW 51.08.177, in the manner
12 specified in RCW 51.16.200; and

13 (f) An officer, member, manager, or other person having control or
14 supervision of payment and/or reporting of family leave insurance, or
15 who is charged with the responsibility for the filing of returns, in
16 the manner specified in RCW 51.48.055.

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

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

28 (2) The administrative law judge's proposed decision and order
29 shall be final and not subject to further appeal unless, within thirty
30 days after the decision is communicated to the interested parties, a
31 party petitions for review by the director. If the director's review
32 is timely requested, the director may order additional evidence by the
33 administrative law judge. On the basis of the evidence before the
34 administrative law judge and such additional evidence as the director
35 may order to be taken, the director shall render a decision affirming,
36 modifying, or setting aside the administrative law judge's decision.
37 The director's decision becomes final and not subject to further appeal

1 unless, within thirty days after the decision is communicated to the
2 interested parties, a party files a petition for judicial review as
3 provided in chapter 34.05 RCW. The director is a party to any judicial
4 action involving the director's decision and shall be represented in
5 the action by the attorney general.

6 (3) If, upon administrative or judicial review, the final decision
7 of the department is reversed or modified, the administrative law judge
8 or the court in its discretion may award reasonable attorneys' fees and
9 costs to the prevailing party. Attorneys' fees and costs owed by the
10 department, if any, are payable from the family leave insurance
11 account.

12 NEW SECTION. **Sec. 15.** An employer, temporary help company,
13 employment agency, employee organization, or other person may not
14 discharge, expel, or otherwise discriminate against a person because he
15 or she has filed or communicated to the employer an intent to file a
16 claim, a complaint, or an appeal, or has testified or is about to
17 testify or has assisted in any proceeding, under this chapter, at any
18 time, including during the waiting period described in section 6 of
19 this act and the period in which the person receives family leave
20 insurance benefits under this chapter. This section shall be enforced
21 as provided in RCW 51.48.025.

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

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

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

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

1 NEW SECTION. **Sec. 20.** The family leave insurance account is
2 created in the custody of the state treasurer. All receipts from the
3 premium imposed under section 19 of this act or the penalties imposed
4 under section 13 of this act must be deposited in the account.
5 Expenditures from the account may be used only for the purposes of the
6 family leave insurance program. Only the director or the director's
7 designee may authorize expenditures from the account. The account is
8 subject to the allotment procedures under chapter 43.88 RCW, but an
9 appropriation is not required for benefit payments.

10 NEW SECTION. **Sec. 21.** If necessary to ensure that money is
11 available in the family leave insurance account for the administration
12 of the family leave insurance program and the payment of benefits under
13 this chapter, the director may, from time to time, lend funds from the
14 supplemental pension fund to the family leave insurance account. These
15 loaned funds may be expended solely for the purposes of administering
16 the program and paying benefits under this chapter. The director shall
17 repay the supplemental pension fund, plus its proportionate share of
18 earnings from investment of moneys in the supplemental pension fund
19 during the loan period, from the family leave insurance account within
20 one year after the date of the initial loan and within three months
21 after the date of any subsequent loan.

22 NEW SECTION. **Sec. 22.** Beginning September 1, 2006, the department
23 shall report to the legislature by September 1st of each year on
24 projected and actual program participation, premium rates, fund
25 balances, and outreach efforts.

26 NEW SECTION. **Sec. 23.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 24.** Sections 1 through 23 of this act
31 constitute a new chapter in Title 49 RCW.

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