
SUBSTITUTE SENATE BILL 5069

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Keiser, Kohl-Welles, Franklin,
Thibaudeau, Brown, Kline and Regala)

READ FIRST TIME 03/02/05.

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 or recover from their
16 own serious health condition; (2) is in addition to those programs
17 offered by employers whether voluntary or required by federal or state
18 family leave laws; (3) provides limited income support for a reasonable
19 period while an individual is away from work on family leave; and (4)

1 reduces the impact on state income support programs by increasing an
2 individual's ability to provide caregiving services for family members
3 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 an illness, injury,
20 impairment, or physical or mental condition that involves a period of
21 incapacity or treatment connected with inpatient care, such as an
22 overnight stay, in a hospital, hospice, or residential medical care
23 facility, and a period of incapacity or subsequent treatment or
24 recovery in connection with such inpatient care; or that involves
25 continuing treatment by or under the supervision of a health care
26 provider or a provider of health care services and which includes a
27 period of incapacity, such as an inability to work, attend school, or
28 perform other regular daily activities; or when the period of
29 incapacity or continuing treatment is expected to exceed the waiting
30 period specified in section 6 of this act over the course of the
31 application year.

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

35 (2) The department shall establish procedures and forms for filing
36 claims for benefits under this chapter. The department shall notify

1 the employer within five business days of a claim being filed under
2 section 4 of this act.

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

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 and (b) of this act is not foreseeable, the employee must give notice
6 to 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, except in the extraordinary
9 circumstances where such notice is not feasible; and

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

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

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

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

30 (b) The payment of benefits under this chapter shall not be
31 considered a binding determination of the obligations of the department
32 under this chapter. The acceptance of compensation by the individual
33 shall likewise not be considered a binding determination of his or her
34 rights under this chapter. Whenever any payment of benefits under this
35 chapter has been made and timely appeal therefrom has been made where
36 the final decision is that the payment was improper, the individual

1 shall repay it and recoupment may be made from any future payment due
2 to the individual on any claim under this chapter. The director may
3 exercise his or her discretion to waive, in whole or in part, the
4 amount of any such payments where the recovery would be against equity
5 and good conscience.

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

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

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

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

31 (2) If an individual who at the time of beginning family leave was
32 regularly working forty hours or more per week is on family leave for
33 less than forty hours but at least eight hours in a week, the
34 individual's weekly benefit shall be .025 times the maximum weekly
35 benefit times the number of hours of family leave taken in the week.
36 Benefits are not payable for less than eight hours of family leave
37 taken in a week.

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

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

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

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

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

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

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

31 (d) The individual is permitted to change a previously elected
32 withholding status.

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

36 (3) The director shall follow all procedures specified by the

1 federal internal revenue service pertaining to the deducting and
2 withholding of income tax.

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

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

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

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

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

32 (b) If an employer requires that family leave for which an
33 individual is receiving or received benefits under this chapter be
34 taken concurrently with leave under the federal family and medical
35 leave act of 1993, chapter 49.78 RCW, or other applicable federal,

1 state, or local law, the employer must give all individuals in its
2 employ written notice of the requirement.

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

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

12 (A) In the same position held by the individual when the leave
13 commenced;

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

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

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

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

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

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

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

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

34 (3) An individual who has been on family leave while receiving
35 family leave insurance benefits under this chapter shall not lose any
36 employment benefit, including seniority or pension rights, accrued
37 before the date that family leave commenced. However, this chapter
38 does not entitle an individual to accrue employment benefits during a

1 period of family leave or to a right, benefit, or position of
2 employment other than a right, benefit, or position to which the
3 individual would have been entitled had the individual not taken family
4 leave.

5 (4) The department shall enforce this section under RCW 49.78.140
6 through 49.78.190.

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

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

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

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

34 (3) The department may cancel elective coverage if the employer or
35 self-employed person fails to make required payments or reports. The
36 department may collect due and unpaid premiums and may levy an

1 additional premium for the remainder of the period of coverage. The
2 cancellation shall be effective no later than thirty days from the date
3 of the notice in writing advising the employer or self-employed person
4 of the cancellation. Within five days of receiving written notice of
5 the cancellation from the director, an employer must provide written
6 notice of the cancellation to all individuals in the employer's employ.

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

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

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

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

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

36 (b) An employer that willfully makes a false statement or

1 misrepresentation regarding a material fact, or willfully fails to
2 report a material fact, to avoid making the required reports or
3 remitting the full amount of the premiums when due under this chapter;

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

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

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

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

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

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

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

1 provided in chapter 34.05 RCW. The director is a party to any judicial
2 action involving the director's decision and shall be represented in
3 the action by the attorney general.

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

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

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

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

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

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

34 NEW SECTION. **Sec. 17.** This chapter does not create a continuing
35 entitlement or contractual right. The legislature reserves the right

1 to amend or repeal all or part of this chapter at any time, and a
2 benefit or other right granted under this chapter exists subject to the
3 legislature's power to amend or repeal this chapter. There is no
4 vested private right of any kind against such amendment or repeal.

5 NEW SECTION. **Sec. 18.** The director may adopt rules as necessary
6 to implement this chapter. In adopting rules, the director shall
7 maintain consistency with the rules adopted to implement the federal
8 family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107
9 Stat. 6), to the extent such rules are not in conflict with this
10 chapter.

11 NEW SECTION. **Sec. 19.** (1)(a) Beginning on January 1, 2006, for
12 each individual, each employer shall pay a premium of two cents per
13 hour worked, up to a maximum of forty hours per week, to the department
14 in the manner and at such intervals as the department directs for
15 deposit in the family leave insurance account. In the payment of
16 premiums, a fractional part of a cent shall be disregarded unless it
17 amounts to one-half cent or more, in which case it shall be increased
18 to one cent.

19 (b) The director shall adjust the amount of the premium from time
20 to time to ensure that the amount is the lowest rate necessary to pay
21 family leave insurance benefits and administrative costs, and maintain
22 actuarial solvency in accordance with recognized insurance principles,
23 of the family leave insurance program on a current basis, and to repay
24 loaned funds from the supplemental pension fund, if any, as required in
25 sections 21 and 22 of this act.

26 (2)(a) Except as provided in (b) of this subsection, each employer
27 may retain from the earnings of each individual an amount equal to the
28 premium assessed for the individual pursuant to subsection (1) of this
29 section.

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

33 NEW SECTION. **Sec. 20.** The family leave insurance account is
34 created in the custody of the state treasurer. All receipts from the
35 premium imposed under section 19 of this act or the penalties imposed

1 under section 13 of this act must be deposited in the account.
2 Expenditures from the account may be used only for the purposes of the
3 family leave insurance program. Only the director or the director's
4 designee may authorize expenditures from the account. The account is
5 subject to the allotment procedures under chapter 43.88 RCW, but an
6 appropriation is not required for benefit payments.

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

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

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

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

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