

E2SSB 5659 - H AMD 776

By Representative Dickerson

ADOPTED AS AMENDED 04/13/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** FINDINGS AND DECLARATIONS. The legislature
4 finds that, although family and medical leave laws have assisted
5 individuals to balance the demands of the workplace with their family
6 responsibilities, more needs to be done to achieve the goals of parent-
7 child bonding, workforce stability, and economic security. In
8 particular, the legislature finds that many individuals do not have
9 access to family and medical leave laws, and those who do may not be in
10 a financial position to take family and medical leave that is unpaid,
11 and that employer-paid benefits meet only a relatively small part of
12 this need. The legislature declares it to be in the public interest to
13 establish a program that: (1) Allows parents to bond with a newborn or
14 newly placed child; (2) provides limited and additional income support
15 for a reasonable period while an individual is away from work on family
16 and medical leave; (3) reduces the impact on state income support
17 programs by increasing an individual's ability to provide caregiving
18 services for a child while maintaining an employment relationship; and
19 (4) establishes a wage replacement benefit to be coordinated with
20 current state and federal family and medical leave laws.

21 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
22 section apply throughout this act unless the context clearly requires
23 otherwise.

24 (1) "Application year" means the twelve-month period beginning on
25 the first day of the calendar week in which an individual files an
26 application for family and medical leave insurance benefits and,
27 thereafter, the twelve-month period beginning with the first day of the
28 calendar week in which the individual next files an application for

1 family and medical leave insurance benefits after the expiration of the
2 individual's last preceding application year.

3 (2) "Calendar quarter" means the same as in RCW 50.04.050.

4 (3) "Child" means the same as in RCW 49.78.020.

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

7 (5) "Employment" means the same as in RCW 50.04.100.

8 (6) "Family and medical leave" means leave for the birth or
9 placement of a child as defined in RCW 49.78.020 and described in RCW
10 49.78.220(1) (a) or (b).

11 (7) "Family and medical leave insurance benefits" means the
12 benefits payable under section 3 of this act.

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

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

20 NEW SECTION. **Sec. 3.** BENEFITS. (1) Beginning October 1, 2009,
21 family and medical leave insurance benefits are payable to an
22 individual during a period in which the individual is unable to perform
23 his or her regular or customary work because he or she is on family and
24 medical leave if the individual has been employed for at least six
25 hundred eighty hours in employment during the individual's qualifying
26 year.

27 (2) The maximum number of weeks during which family and medical
28 leave insurance benefits are payable in an application year is five
29 weeks. However, benefits are not payable during a waiting period
30 consisting of the first seven calendar days of family and medical
31 leave.

32 (3) The amount of family and medical leave insurance benefits shall
33 be determined as follows:

34 (a) The weekly benefit shall be two hundred fifty dollars per week
35 for an individual who at the time of beginning family and medical leave
36 was regularly working thirty-five hours or more per week.

1 (b) For an individual who was regularly working thirty-five hours
2 or more per week at the time of beginning family and medical leave and
3 is on family and medical leave for less than thirty-five hours but at
4 least eight hours in a week, the weekly benefit shall be .025 times the
5 maximum weekly benefit times the number of hours of family and medical
6 leave taken in the week.

7 (c) For an individual who was regularly working less than thirty-
8 five hours per week at the time of beginning family and medical leave,
9 there shall be a prorated schedule for a weekly benefit amount and a
10 minimum number of hours of family and medical leave that must be taken
11 in a week for benefits to be payable. The prorated schedule shall be
12 based on the amounts and the calculations specified under (a) and (b)
13 of this subsection.

14 NEW SECTION. **Sec. 4.** NO CONTINUING ENTITLEMENT OR CONTRACTUAL
15 RIGHT. This act does not create a continuing entitlement or
16 contractual right. The legislature reserves the right to amend or
17 repeal all or part of this act at any time, and a benefit or other
18 right granted under this act exists subject to the legislature's power
19 to amend or repeal this act. There is no vested private right of any
20 kind against such amendment or repeal.

21 NEW SECTION. **Sec. 5.** LEAVE AND EMPLOYMENT PROTECTION. (1)
22 Beginning October 1, 2009, during a period in which an individual
23 receives family and medical leave insurance benefits or earns waiting
24 period credits under this act, the individual is entitled to family and
25 medical leave and, at the established ending date of leave, to be
26 restored to a position of employment with the employer from whom leave
27 was taken.

28 (2) The individual entitled to leave under this section shall be
29 restored to a position of employment in the same manner as an employee
30 entitled to leave under chapter 49.78 RCW is restored to a position of
31 employment, as specified in RCW 49.78.280.

32 (3) This section applies only to an individual if:

33 (a) The employer from whom the individual takes family and medical
34 leave employs more than twenty-five employees; and

35 (b) The individual has been employed for at least twelve months by

1 that employer, and for at least one thousand two hundred fifty hours of
2 service with that employer during the previous twelve-month period.

3 (4) This section shall be enforced as provided in chapter 49.78
4 RCW.

5 NEW SECTION. **Sec. 6.** COORDINATION OF LEAVE. (1)(a) Leave taken
6 under this act must be taken concurrently with any leave taken under
7 the federal family and medical leave act of 1993 (Act Feb. 5, 1993,
8 P.L. 103-3, 107 Stat. 6) or under chapter 49.78 RCW.

9 (b) An employer may require that leave taken under this act be
10 taken concurrently or otherwise coordinated with leave allowed under
11 the terms of a collective bargaining agreement or employer policy, as
12 applicable, for the birth or placement of a child. The employer must
13 give individuals in its employ written notice of this requirement.

14 (2)(a) This act does not diminish an employer's obligation to
15 comply with a collective bargaining agreement or employer policy, as
16 applicable, that provides greater leave for the birth or placement of
17 a child.

18 (b) An individual's right to leave under this act may not be
19 diminished by a collective bargaining agreement entered into or renewed
20 or an employer policy adopted or retained after the effective date of
21 this section. Any agreement by an individual to waive his or her
22 rights under this act is void as against public policy.

23 NEW SECTION. **Sec. 7.** ADMINISTRATIVE COSTS. Beginning July 1,
24 2011, the costs of administering this act may not exceed ten percent of
25 the total costs of family and medical leave insurance benefits.

26 NEW SECTION. **Sec. 8.** JOINT LEGISLATIVE TASK FORCE. (1)(a) The
27 joint legislative task force on family and medical leave insurance is
28 established, with members as provided in this subsection.

29 (i) The majority leader of the senate shall appoint three
30 legislative members of the task force, which shall include two members
31 of the largest caucus of the senate and one member of the next largest
32 caucus of the senate.

33 (ii) The speaker of the house of representatives shall appoint
34 three legislative members of the task force, which shall include two

1 members of the largest caucus of the house and one member of the next
2 largest caucus of the house.

3 (iii) The majority leader of the senate and the speaker of the
4 house of representatives jointly shall appoint five nonlegislative
5 members of the task force, which shall include one member representing
6 large business, one member representing small business, one member
7 representing labor, one member representing women, and one member
8 representing interests in children's early learning and/or health.

9 (iv) The governor shall appoint one member of the task force.

10 (b) The majority leader of the senate and the speaker of the house
11 of representatives jointly shall appoint the cochair of the task force
12 from among the legislative members of the task force. The cochair
13 shall convene the initial meeting of the task force. A steering
14 committee consisting of the legislative members of the task force shall
15 advise the cochair on the meetings and other activities of the task
16 force.

17 (2) The task force shall study the establishment of a family and
18 medical leave insurance program including, but not limited to, the
19 following:

20 (a) The manner in which the benefits and the administrative costs
21 should be financed;

22 (b) The manner in which the program should be implemented and
23 administered;

24 (c) Any government efficiencies which should be adopted to improve
25 program administration and reduce program costs; and

26 (d) The impacts, if any, of the family and medical leave insurance
27 program on the unemployment compensation system, and options for
28 mitigating such impacts.

29 (3) Staff support for the task force must be provided by the senate
30 committee services and the house of representatives office of program
31 research. The task force may hire additional staff with specific
32 technical expertise if such expertise is necessary to carry out the
33 mandates of this study, and only if an appropriation is specifically
34 provided for this purpose.

35 (4) Legislative members of the task force must be reimbursed for
36 travel expenses in accordance with RCW 44.04.120. Nonlegislative
37 members, except those representing an employer or organization, are

1 entitled to be reimbursed for travel expenses in accordance with RCW
2 43.03.050 and 43.03.060.

3 (5) The expenses of the task force must be paid jointly by the
4 senate and the house of representatives. Task force expenditures are
5 subject to approval by the senate facilities and operations committee
6 and the house of representatives executive rules committee, or their
7 successor committees.

8 (6) The task force shall report its findings and recommendations,
9 which shall include proposed legislation, to the legislature by January
10 1, 2008.

11 (7) This section expires July 1, 2009.

12 NEW SECTION. **Sec. 9.** CAPTIONS. Captions used in this act are not
13 any part of the law.

14 NEW SECTION. **Sec. 10.** EFFECTIVE DATE. Section 8 of this act is
15 necessary for the immediate preservation of the public peace, health,
16 or safety, or support of the state government and its existing public
17 institutions, and takes effect immediately."

18 Correct the title.

- EFFECT: (1) Strikes all of the bill as passed the Senate.
- (2) Provides for benefits of \$250 per week for up to 5 weeks while individuals who work full-time are on leave for the birth of a child or placement of a child for adoption or foster care. Provides for prorated benefits for persons who work part-time or are on leave part-time. Makes this provision take effect October 1, 2009.
- (3) Specifies that the bill does not create a continuing entitlement or contractual right.
- (4) Provides for job protection following leave for individuals who work for an employer with more than 25 employees, and who have worked for at least 12 months for that employer, and for at least 1,250 hours over the previous 12 months for that employer. Makes this provision take effect October 1, 2009.
- (5) Specifies that:
- (a) Leave under the bill must be taken concurrently with leave taken under the federal Family and Medical Leave Act or the state Family Leave Law;
- (b) Employers may require that leave under the bill be taken concurrently or otherwise coordinated with leave allowed under collective bargaining agreements or employer policies;

(c) Existing obligations under collective bargaining agreements or employer policies are not diminished; and

(d) Rights under this act may not be diminished by collective bargaining agreements or employer policies.

(6) Caps administrative costs at 10 percent. Makes this provision take effect July 1, 2011.

(7) Establishes a twelve-member joint legislative task force to study the establishment of a family and medical leave insurance program. Requires the task force to report its findings and recommendations, including proposed legislation, to the Legislature by January 1, 2008.

(8) Adds an emergency clause and an immediate effective date applicable only to section 8 of this act, establishing the task force. Adds an expiration date of July 1, 2009, applicable only to section 8 of this act.

--- END ---