

# SENATE BILL REPORT

## E2SHB 1073

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As of March 29, 2021

**Title:** An act relating to expanding coverage of the paid family and medical leave program.

**Brief Description:** Expanding coverage of the paid family and medical leave program.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Berry, Wicks, Fitzgibbon, Bateman, Tharinger, Simmons, Kloba, Ramel, Ortiz-Self, Goodman, Ryu, Bronoske, Hackney, Chopp, Riccelli, Stonier, Frame, Macri, Davis, Pollet, Bergquist and Harris-Talley).

**Brief History:** Passed House: 3/3/21, 56-40.

**Committee Activity:** Labor, Commerce & Tribal Affairs: 3/11/21, 3/17/21 [DPA-WM, DNP].

Ways & Means: 3/30/21.

### Brief Summary of Amended Bill

- Provides a pandemic leave assistance grant to certain employees who are unable to access their state paid family and medical leave benefits due to the COVID-19 pandemic.
- Outlines employee eligibility for the new grant based on alternate hours worked thresholds

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; Robinson and Saldaña.

**Minority Report:** Do not pass.

Signed by Senators King, Ranking Member; Braun, Honeyford and Schoesler.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Matt Shepard-Koningsor (786-7627)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Sarah Emmans (786-7478)

**Background:** The Paid Family and Medical Leave (PFML) program was enacted to provide partial wage replacement to employees on leave for specified family and medical reasons. It is funded through premiums paid by employers and employees. The Employment Security Department (ESD) administers the program.

Eligibility. Employees are eligible for benefits under the PFML program after working at least 820 hours in a qualifying period. A qualifying period is the first four of the last five full calendar quarters, or the last four full calendar quarters.

Weekly Benefit Amount. The weekly benefit amount (WBA) under the PFML program is calculated as follows. If the employee's average weekly wage is:

- equal to or less than one-half of the state average weekly wage, the WBA is equal to 90 percent of the employee's average weekly wage; or
- greater than one-half of the state average weekly wage, the WBA is the sum of: (1) 90 percent of one-half of the state average weekly wage; and (2) 50 percent of the difference of the employee's average weekly wage and one-half of the state average weekly wage.

The WBA is subject to certain conditions and limitations such as maximum and minimum weekly benefits and duration. The WBA is prorated by the percentage of hours on leave compared to the number of hours provided as the typical workweek hours. A salaried employee's typical workweek hours are 40, regardless of the number of hours the salaried employee typically works. An hourly employee's typical workweek hours are the average number of hours the employee works per week within the qualifying period.

**Summary of Amended Bill:** Grant Eligibility. For claims with an effective start date in 2021 through June 30, 2022, employees who do not meet the hours worked threshold for PFML program eligibility in 2020 or the first calendar quarter of 2021, and are otherwise eligible under the PFML program, are eligible for a pandemic leave assistance grant (grant), if the employee:

- worked 820 hours in employment during the first through fourth calendar quarters of 2019;
- worked 820 hours in employment during the second through fourth calendar quarters of 2019 and the first calendar quarter of 2020; or
- worked 520 hours in employment during the first calendar quarter of 2020.

An employee is ineligible for a grant if the employee does not meet the hours worked threshold because of an employment separation due to misconduct or a voluntary separation

unrelated to COVID-19. An employee seeking grant eligibility must attest to this information.

Grant Amount. The amount of the grant must be equal to the WBA calculated in the PFML program. In calculating the WBA for non-salaried employees eligible for a grant, the typical workweek hours are the quotient derived by dividing the sum of the employee's reported hours by the sum of the number of weeks the employee reported hours.

Other. ESD is granted rulemaking authority.

#### **EFFECT OF LABOR, COMMERCE & TRIBAL AFFAIRS COMMITTEE AMENDMENT(S):**

- Modifies the intent section to explain the connection between COVID-19 and hours worked thresholds.
- Provides intent to use federal funding from the America rescue plan act to provide financial assistance through a pandemic leave assistance grant to workers unable to access PFML program benefits due to not meeting the hours worked threshold because of COVID-19.
- Retains the alternate eligibility periods to determine employee eligibility for the grant, which is equal to the WBA in the PFML program.
- Amends the calculation for the typical workweek hours for non-salaried employees.
- Removes provisions on small business grants, and the null and void and emergency clauses.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Labor, Commerce & Tribal Affairs):** *The committee recommended a different version of the bill than what was heard.* PRO: This bill is narrowly designed to address the impact of COVID-19 on workers' ability to meet the hours worked requirement. Washington has one of the highest hours worked requirements in the country and COVID-19 creates additional issues. This is a gender equity bill since the bulk of workers who lost their jobs during the pandemic are women. It should be passed as soon as possible. It is estimated this bill will assist up to 42,000 families in Washington. These are workers who paid into the program but cannot access benefits. This bill will not affect the family and medical leave insurance account.

OTHER: PFML is still a fragile program, which has only been in effect for a little over a year. This bill will affect the efficiency of the family and medical leave insurance account. Small business grants were implemented a year late and wait times at ESD are extensive.

**Persons Testifying (Labor, Commerce & Tribal Affairs):** PRO: Marilyn Watkins, Economic Opportunity Institute; Maggie Humphreys, MomsRising.

OTHER: Robert Battles, Association of Washington Business.

**Persons Signed In To Testify But Not Testifying (Labor, Commerce & Tribal Affairs):** No one.