
SUBSTITUTE SENATE BILL 5911

State of Washington

67th Legislature

2022 Regular Session

By Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Cleveland, Keiser, Billig, Conway, Das, Lovelett, Lovick, Nguyen, Randall, Saldaña, Stanford, and Trudeau)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to providing hazard pay retention bonuses to
2 certain health care employees; creating new sections; providing an
3 expiration date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington
6 health care workers have suffered direct effects from the COVID-19
7 pandemic. Due to the unprecedented stress of providing health care
8 during the COVID-19 pandemic, many health care facilities are
9 experiencing acute staffing shortages among certain health care
10 workforces. The legislature finds surges in infections have strained
11 hospital capacity necessitating gubernatorial action to delay
12 nonurgent health services and deploying the national guard to assist
13 emergency departments.

14 (2) Therefore, the legislature intends to provide a financial
15 incentive to certain health care employees working in emergency
16 departments, intensive care units, or urgent care facilities to
17 retain their service during the COVID-19 pandemic.

18 (3) The legislature intends to utilize federal funding from the
19 coronavirus state fiscal recovery fund of the American rescue plan
20 act of 2021 to provide this financial assistance to certain COVID-19

1 impacted health care workers to ensure a robust health care workforce
2 to serve Washingtonians.

3 NEW SECTION. **Sec. 2.** (1)(a) A covered employee is eligible for
4 a one-time hazard pay retention bonus if the employee worked 240
5 hours for a covered employer in the fourth calendar quarter of 2021.

6 (b) The hazard pay retention bonus must be paid in addition to
7 all other compensation due including, but not limited to, salaries,
8 wages, overtime, commissions, piece rates, paid rest and meal breaks,
9 paid leave, and reimbursement for covered employer expenses.

10 (c) The hazard pay retention bonus must not be considered part of
11 the covered employee's regular rate of pay or compensation, including
12 serving as a basis for determining overtime eligibility.

13 (2)(a) By July 1, 2022, a covered employer must provide to the
14 department, in a manner approved by the department, the following
15 information for each covered employee it employs:

- 16 (i) Legal full name;
- 17 (ii) Total hours worked during the fourth calendar quarter of
18 2021;
- 19 (iii) Mailing address; and
- 20 (iv) Taxpayer identification number.

21 (b) A covered employer must notify all employees it employs
22 whether the covered employer considers the employee to be a covered
23 employee. In addition, a covered employer must notify all covered
24 employees that their information was provided to the department for
25 the purpose of receiving a hazard pay retention bonus from the state.

26 (3) It is unlawful for a covered employer to discharge, lay off,
27 or reduce any compensation or hours worked by a covered employee to
28 prevent, in whole or in part, the covered employee from receiving a
29 hazard pay retention bonus.

30 (4) To determine the amount of the hazard pay retention bonus,
31 the department must divide the sum available for expenditure in the
32 health care employee hazard pay account created in section 3 of this
33 act, minus the sum of the department's administrative costs plus
34 \$100,000, by the total number of unique, eligible covered employees.
35 In no event may the hazard pay retention bonus equate to more than
36 \$13 per hour for the covered employee.

37 (5) As soon as practicable, but no later than October 14, 2022,
38 the department must issue a hazard pay retention bonus in the amount
39 determined under subsection (4) of this section to a covered employee

1 eligible under subsection (1) of this section. Each eligible covered
2 employee may only receive one hazard pay retention bonus, regardless
3 of the total number of hours worked or the number of employers for
4 whom they worked.

5 (6) A covered employee denied eligibility under subsection (1) of
6 this section may appeal to the department by providing an affidavit
7 and supporting documentation demonstrating their eligibility under
8 subsection (1) of this section. The department must review submitted
9 documentation and follow up with the covered employee and covered
10 employer. If the department determines the covered employee is
11 eligible, it must issue a hazard pay retention bonus to the covered
12 employee in the amount determined under subsection (4) of this
13 section.

14 (7) The department may:

15 (a) Enforce violations of this act consistent with RCW 49.48.040;

16 (b) Adopt additional eligibility criteria if such criteria are
17 necessary to comply with federal funding requirements; and

18 (c) Enter into data sharing agreements with other state agencies
19 for the purpose of verifying hazard pay retention bonus eligibility.

20 (8) The department must keep information submitted under
21 subsection (2)(a) of this section confidential.

22 (9) Hazard pay retention bonuses under this section are only
23 available until moneys contained in the health care employee hazard
24 pay account are exhausted.

25 (10) Unless additional eligibility criteria are adopted under
26 subsection (7)(b) of this section, the department may presume,
27 without additional review, a covered employee is eligible under
28 subsection (1) of this section if a covered employer indicates the
29 covered employee worked at least 240 hours in the fourth calendar
30 quarter of 2021.

31 (11) For the purposes of this section:

32 (a) "Calendar quarter" means the period of three consecutive
33 calendar months ending on March 31st, June 30th, September 30th, or
34 December 31st.

35 (b) (i) "Covered employee" means an individual who worked at a
36 health care facility, as defined in RCW 9A.50.010, and was directly
37 involved in the delivery of health services.

38 (ii) "Covered employee" does not include an individual who:

39 (A) Is a contract employee or volunteer;

1 (B) Has total annual earnings, including any premium or hazard
2 pay received, greater than \$100,305 for the covered employer; or

3 (C) Is exempt from the overtime pay provisions of the federal
4 fair labor standards act, 29 U.S.C. Sec. 207.

5 (c) "Covered employer" means an employer that employs a covered
6 employee.

7 (d) "Department" means the department of labor and industries.

8 (e) "Employ" or "employs" means to engage, suffer, or permit to
9 work.

10 NEW SECTION. **Sec. 3.** The health care employee hazard pay
11 account is created in the custody of the state treasurer. Revenues to
12 the account shall consist of appropriations and transfers by the
13 legislature and all other funding directed for deposit into the
14 account. Expenditures from the account may be used only for providing
15 hazard pay retention bonuses and up to seven percent for associated
16 administrative costs of the department. Only the director of the
17 department of labor and industries or the director's designee may
18 authorize expenditures from the account. The account is subject to
19 the allotment procedures under chapter 43.88 RCW, but an
20 appropriation is not required for expenditures. Any amounts remaining
21 in the account upon expiration of this act must be transferred into
22 the state general fund.

23 NEW SECTION. **Sec. 4.** The department of labor and industries may
24 adopt rules to implement this act.

25 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of
27 the state government and its existing public institutions, and takes
28 effect immediately.

29 NEW SECTION. **Sec. 6.** This act expires June 30, 2023.

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