
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1073

State of Washington

67th Legislature

2021 Regular Session

By House 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)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to expanding coverage of the paid family and
2 medical leave program; amending RCW 50A.15.010, 50A.30.020, and
3 50A.24.010; adding a new section to chapter 50A.15 RCW; creating new
4 sections; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that many
7 workers who have paid into the paid family and medical leave
8 insurance program have suffered job losses, reductions in hours, or
9 an inability to reenter the workforce due to the effects of the
10 COVID-19 pandemic. These workers are unable to access their family
11 and medical leave benefits under the existing hours worked threshold
12 through no fault of their own.

13 (2) The legislature intends to temporarily adjust the qualifying
14 periods for these adversely impacted workers to restore access to
15 family and medical leave benefits.

16 (3) In the temporary adjustment of the qualifying period for
17 these workers and related costs for any additional grants under RCW
18 50A.24.010, the legislature intends to prevent impacts to the family
19 and medical leave insurance account through the provision of separate
20 funding. In so doing, the legislature intends to avoid any premium
21 rate increases or the application of a solvency surcharge.

1 **Sec. 2.** RCW 50A.15.010 and 2019 c 13 s 2 are each amended to
2 read as follows:

3 (~~Employees~~) Except as provided in section 3 of this act,
4 employees are eligible for family and medical leave benefits as
5 provided in this title after working for at least eight hundred
6 twenty hours in employment during the qualifying period.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 50A.15
8 RCW to read as follows:

9 (1) For claims with an effective start date of January 1, 2021
10 through June 30, 2022, employees that do not meet the hours worked
11 threshold for eligibility under RCW 50A.15.010 or 50A.30.020(1) in
12 calendar year 2020 or the first calendar quarter of 2021 are eligible
13 for family and medical leave benefits as provided under subsection
14 (2) of this section.

15 (2) An employee seeking eligibility under this section may use
16 one of the following alternate qualifying periods:

17 (a) Eight hundred twenty hours worked in employment during the
18 first through fourth calendar quarters of 2019;

19 (b) If the employee does not meet the hours worked threshold
20 under (a) of this subsection, 820 hours worked in employment during
21 the second through fourth calendar quarters of 2019 and first
22 calendar quarter of 2020; or

23 (c) If the employee does not meet the hours worked threshold
24 under (a) or (b) of this subsection, 520 hours worked in the first
25 calendar quarter of 2020.

26 (3)(a) Subsections (1) and (2) of this section do not apply to an
27 employee who does not meet the hours worked threshold for eligibility
28 under RCW 50A.15.010 or 50A.30.020(1) because of an employment
29 separation due to misconduct or a voluntary separation unrelated to
30 the COVID-19 pandemic.

31 (b) An employee seeking eligibility under this section must
32 attest, in a manner prescribed by the department, that their failure
33 to meet the hours worked threshold for eligibility under RCW
34 50A.15.010 or 50A.30.020(1) is not due to the reasons specified in
35 (a) of this subsection.

36 (4) For purposes of determining their weekly benefit amount under
37 RCW 50A.15.020(4), the average weekly wage of an employee qualifying
38 for benefits under subsection (2)(c) of this section is the quotient
39 derived by dividing the employee's total wages during the first

1 calendar quarter of 2020 by 13. If the result is not a multiple of
2 \$1, the department must round to the next lower multiple of \$1.

3 **Sec. 4.** RCW 50A.30.020 and 2019 c 13 s 57 are each amended to
4 read as follows:

5 (1) (~~(F)~~) Except as provided in section 3 of this act, to be
6 eligible for any family and medical leave, an employee must be in
7 employment for eight hundred twenty hours during the qualifying
8 period, by an employer with a voluntary plan or an employer utilizing
9 the state family and medical leave plan. An employee qualifies for
10 benefits under an employer's voluntary plan after the employee works
11 at least three hundred forty hours for the current employer.

12 (2) An employer with an approved voluntary plan may waive the
13 requirements in subsection (1) of this section, in whole or in part,
14 to allow an employee to be immediately eligible for coverage under
15 the employer's voluntary plan.

16 (3) An employee who had coverage under the state plan retains
17 coverage under the state plan until such time as the employee is
18 qualified for coverage under the new employer's voluntary plan.

19 (4) An employee who was eligible for benefits under a voluntary
20 plan is immediately eligible for benefits under a new employer's
21 voluntary plan.

22 **Sec. 5.** RCW 50A.24.010 and 2019 c 13 s 36 are each amended to
23 read as follows:

24 (1) The legislature recognizes that while family leave and
25 medical leave benefit both employees and employers, there may be
26 costs that disproportionately impact small businesses. To equitably
27 balance the risks among employers, the legislature intends to assist
28 small businesses with the costs of an employee's use of family or
29 medical leave.

30 (2) Employers with one hundred fifty or fewer employees and
31 employers with fifty or fewer employees who are assessed all premiums
32 under RCW 50A.10.030(5)(b) may apply to the department for a grant
33 under this section.

34 (3)(a) An employer may receive a grant of three thousand dollars
35 if the employer hires a temporary worker to replace an employee on
36 family or medical leave for a period of seven days or more.

37 (b) For an employee's family or medical leave, an employer may
38 receive a grant of up to one thousand dollars as reimbursement for

1 significant additional wage-related costs due to the employee's
2 leave.

3 (c) An employer may receive a grant under (a) or (b) of this
4 subsection, but not both, except that an employer who received a
5 grant under (b) of this subsection may receive a grant of the
6 difference between the grant awarded under (b) of this subsection and
7 three thousand dollars if the employee on leave extended the leave
8 beyond the leave initially planned and the employer hired a temporary
9 worker for the employee on leave.

10 (4) An employer may apply for a grant no more than ten times per
11 calendar year and no more than once for each employee on leave.

12 (5) To be eligible for a grant, the employer must provide the
13 department written documentation showing the temporary worker hired
14 or significant wage-related costs incurred are due to an employee's
15 use of family or medical leave.

16 (6) The department must assess an employer with fewer than fifty
17 employees who receives a grant under this section for all premiums
18 for three years from the date of receipt of a grant.

19 (7) ~~((The))~~ Except for any grants provided for employees on
20 family or medical leave under section 3 of this act, grants under
21 this section shall be funded from the family and medical leave
22 insurance account.

23 (8) The commissioner shall adopt rules as necessary to implement
24 this section.

25 (9) For the purposes of this section, the number of employees
26 must be calculated as provided in RCW 50A.10.030.

27 (10) An employer who has an approved voluntary plan is not
28 eligible to receive a grant under this section.

29 NEW SECTION. **Sec. 6.** The employment security department may
30 adopt rules to implement this act.

31 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
32 this act, referencing this act by bill or chapter number, is not
33 provided by June 30, 2021, in the omnibus appropriations act, this
34 act is null and void.

35 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

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