
DIGEST

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HB 596 Original

2023 Regular Session

Freeman

Abstract: Creates the Louisiana Family and Medical Leave Benefits Act.

Proposed law provides that proposed law shall be known and may be cited as the "Louisiana Family and Medical Leave Benefits Act".

Proposed law provides definitions for application year, average weekly wage, base period, benefits, benefit year, commission, covered individual, employee, employer, family member, federal Family and Medical Leave Act, fund, qualifying military exigency leave, safe leave, secretary, serious health condition, and state's average weekly wage.

Proposed law provides that beginning eighteen months after the effective date of proposed law, family and medical leave benefits shall be paid to an employee who is a covered individual and who meets any of the following situations:

- (1) The covered individual is caring for a new child during the first year after birth, adoption, or placement through foster care.
- (2) The covered individual is caring for a family member with a serious health condition that renders that family member unable to care for himself.
- (3) The covered individual has a serious health condition that makes him unable to perform the functions of his position of employment.
- (4) The covered individual is caring for a military service member who is the covered individual's family member.
- (5) The leave falls under "qualifying military exigency leave".
- (6) The leave falls under "safe leave".

Proposed law provides that benefits shall be payable to a covered individual who is employed and who has paid into the La. Family and Medical Leave Account Fund for a base period.

Proposed law provides that the maximum weeks that benefits will be paid is 12 weeks. Proposed law further provides that an additional four weeks may be provided for cases involving a complication related to pregnancy or childbirth.

Proposed law provides that benefits shall not be payable for the first seven consecutive calendar days in an application year or waiting period that a covered individual is eligible for benefits. Proposed law further provides that the aforementioned provision is not applicable for benefits taken by a covered individual, who is caring for a new child during the first year after birth, adoption, or placement through foster care.

Proposed law provides that the first payment of benefits shall be made within two weeks after the claim is filed and subsequent payments shall be made twice a month.

Proposed law provides that the family and medical leave benefits shall be based on the covered individual's average weekly wage in relation to the state's average weekly wage.

Proposed law provides that the covered individual's average weekly wage shall be calculated by dividing the number of weeks in the benefit by the covered individual's earnings.

Proposed law provides that after calculating the covered individual's average weekly wage, the covered individual's weekly benefit amount shall be determined and paid pursuant to the following:

- (1) If the covered individual's calculated average weekly wage is less than 50% of the state's average weekly wage then he shall be entitled to 90% of his average weekly wage.
- (2) If the covered individual's calculated average weekly wage is equal to or greater than 50% of the state's average weekly wage then he shall be entitled to 50% of his average weekly wage.

Proposed law provides that the maximum weekly benefit shall be the state's average weekly wage, as calculated by the secretary of the La. Workforce Commission (LWC).

Proposed law provides that benefits shall not be paid for less than one day or for less than eight consecutive hours of family and medical leave in any one work week.

Proposed law provides that employer and employee contributions are hereby authorized in order to finance the payment of benefits.

Proposed law provides that contributions are not required for employee wages above the contribution and benefit base limited established annually by appropriate federal law.

Proposed law requires contributions to be divided between employers and employees, with the employers paying 45% of the contribution and employees pay 55%. Proposed law further requires a self-employed person, who elects coverage, to pay only 55% of the contribution that is required of an employee.

Proposed law exempts an employer with 25 or fewer employees from paying the employer portion of the aforementioned contribution rate.

Proposed law provides that the secretary of LWC shall determine the contribution rate for each calendar year and the secretary shall withhold and deposit all contributions into the Family and Medical Leave fund.

Proposed law provides that benefits paid pursuant to proposed law that would also qualify as a reason for leave in accordance with the federal Family and Medical Leave Act (FMLA), then benefits paid shall run concurrently with leave taken under federal FMLA.

Proposed law provides that the covered individual is entitled to be restored to an equivalent position of employment in the same manner as one is entitled to in accordance with federal FMLA, if the covered individual satisfies the standards for reinstatement.

Proposed law allows a covered individual to take family and medical leave on an intermittent or reduced leave schedule, as long as the individual makes a reasonable effort to schedule such leave is not unduly disruptive to the employer's operations and the employer receives prior notice before leave is taken.

Proposed law provides that a self-employed individual may elect for coverage provided for in proposed law for an initial period of not less than three years or a subsequent period of not less than one year immediately following another period of coverage.

Proposed law provides that the self-employed individual shall file a written notice of election of coverage with the secretary of the La. Workforce Commission (LWC) on a form promulgated by the secretary. Proposed law further provides the election of coverage will become effective on the date the written notice was filed with the secretary of LWC.

Proposed law provides that a self-employed individual may withdraw from coverage within 30 days after the end of the three-year period of coverage or at any other times as the LWC may prescribe by rule. Proposed law further provides that in order to withdraw, the self-employed individual must file a written notice with the secretary of LWC and the withdrawal shall take effect no later than 30 days after filing of the written notice.

Proposed law provides that if a covered individual willfully makes a false statement or misrepresentation in order to receive family and medical leave benefits, then the covered individual will be disqualified from receiving benefits for one year.

Proposed law provides that the LWC may seek repayment of benefits if benefits were paid erroneously or were paid as a result of willful misrepresentation or if a claim is rejected after benefits have been paid.

Proposed law provides that any covered individual who is denied restoration to an equivalent position or discriminated against shall be entitled to recover a civil penalty of \$200 per each violation. Proposed law provides that each day a violation occurs shall constitute as a separate offense.

Proposed law provides that the aforementioned penalty shall not exceed the total compensation the covered individual would have received had he not been on family or medical leave.

Proposed law provides that the LWC shall establish and administer a family and medical leave program and pay benefits as specified in proposed law.

Proposed law provides that the LWC shall notify an employer within five business days of a claim that was filed.

Proposed law requires LWC to conduct public outreach, whereby LWC will conduct a public education campaign to inform workers and employers regarding the availability of paid family and medical leave benefits.

Proposed law provides for the creation of a special fund known as the La. Family and Medical Leave Account Fund (the fund) in the state treasury.

Proposed law provides that all monies deposited or paid into the fund shall be appropriated and made available to the secretary of the LWC and shall be expended solely for the purpose of defraying the cost of administration and the payment of benefits.

Proposed law provides that an employer may apply to LWC for approval to meet his obligations as required by proposed law through a private plan. Proposed law further provides that the cost to employees covered by this private plan shall not be greater than the cost charged to employees under a state plan.

Proposed law provides that an employee shall satisfy his obligations, if the private plan complies with all of the following:

- (1) If the private plan is self-insured, the employer shall furnish a bond to the state with a surety company authorized to do business in this state.
- (2) The private plan must provide coverage to all employees throughout their period of employment with the employer.
- (3) If it is a third-party insured private plan, the policy shall be issued by an insurer approved by the state.
- (4) Written notice shall be provided to an employee covered by the private plan and the written notice contain information specified and required by proposed law.

Proposed law provides that the private plan violates the provisions of proposed law, LWC shall assess a fine against the employer.

Proposed law provides that certain files and records pertaining to proposed law are confidential and subject to public inspection.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(12); Adds R.S. 23:671-690)