

2022 Regular Session

HOUSE BILL NO. 1003

BY REPRESENTATIVE CARPENTER

EMPLOYMENT: Creates the Louisiana Family and Medical Leave Benefits Act

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(12) and to enact Chapter 6-B of Title 23 of the

3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 23:671 through 688,

4 relative to family and medical leave benefits; to provide for a short title; to provide

5 for definitions; to provide for eligibility to receive and payment of benefits; to

6 provide for the calculation and duration of benefits; to provide for leave and job

7 protection; to prohibit discrimination; to provide for the coordination of benefits; to

8 provide for enforcement; to provide for elective coverage for self-employed

9 individuals; to provide for administration of the program; to provide for civil

10 penalties for violations; to provide for legislative oversight; to provide for public

11 outreach; to provide for the sharing of technology; to provide for confidentiality of

12 records and an exception to the public records law; to provide for an effective date;

13 to create a special fund in the treasury; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Chapter 6-B of Title 23 of the Louisiana Revised Statutes of 1950,

16 comprised of R.S. 23:671 through 688, is hereby enacted to read as follows:

17 CHAPTER 6-B. FAMILY AND MEDICAL LEAVE BENEFITS

18 §671. Short title

19 This Chapter shall be known and may be cited as the "Louisiana Family and

20 Medical Leave Benefits Act".

1 §672. Definitions

2 As used in this Chapter, the following terms have the meanings ascribed to
3 them:

4 (1) "Application year" means the twelve-month period beginning on the first
5 day of the calendar week in which a covered individual files an application for
6 family and medical leave benefits.

7 (2) "Average weekly wage" means the covered individual's average weekly
8 wage.

9 (3) "Base period" means the first four of the last five complete calendar
10 quarters immediately preceding the first day of a covered individual's benefit year.

11 (4) "Benefits" means paid family and medical leave benefits.

12 (5) "Benefit year" means the one-year period beginning on the Sunday
13 immediately preceding the first day that paid family and medical leave provided for
14 in this Chapter commences for the covered individual.

15 (6) "Commission" means the Louisiana Workforce Commission or its
16 successor.

17 (7)(a) "Covered individual" means an individual who performs services for
18 compensation or under any written or oral contract for hire, whether the contract is
19 expressed or implied, and who satisfies all of the following criteria:

20 (i) The covered individual satisfies the eligibility requirements for benefits
21 as provided for in this Chapter.

22 (ii) The covered individual is employed and has paid monies into the
23 Louisiana Family and Medical Leave Account Fund for the base period or the
24 covered individual is employed on a part-time basis and received compensation for
25 a minimum of eight hundred and twenty hours in the last five calendar quarters.

26 (iii) The covered individual's compensation is subject to withholding payroll
27 taxes for unemployment compensation benefits and the covered individual has
28 worked the length of time necessary to be entitled to receive unemployment
29 compensation benefits.

1 (b) The term "covered individual" shall not include an individual who meets
2 all of the following criteria:

3 (i) He is and will continue to be free from any control or direction over the
4 performance of his services.

5 (ii) His service rendered is outside the usual course of the business for which
6 the service is performed or is performed outside all the places of business of the
7 enterprise for which the service is performed.

8 (iii) He is customarily engaged in an independently established trade,
9 occupation, profession, or business.

10 (8) "Employer" is as defined in R.S. 23:1472(11) except that the term
11 "employer" shall not include any of the following:

12 (a) A self-employed individual who does not elect coverage in accordance
13 with this Chapter.

14 (b) Any agency, board, committee, department, division, commission, office,
15 or other organizational unit of the state.

16 (c) Any local governmental unit or political subdivision of the state.

17 (d) Any individual, company, or other entity that employs nineteen or fewer
18 employees unless the employees agree to pay their portion of the premium for
19 benefits.

20 (9) "Family member" means any of the following individuals:

21 (a) The biological, adopted, foster, or step child to whom a covered
22 individual stands in loco parentis.

23 (b) The biological, foster, step, or adoptive parent, or legal guardian of a
24 covered individual or a person who stood in loco parentis if the covered individual
25 is a minor child.

26 (c) A person to whom a covered individual is legally married under the laws
27 of this state.

28 (d) A grandparent or step grandparent of a covered individual or his spouse.

29 (e) A grandchild or step grandchild of a covered individual or his spouse.

1 (f) A biological, foster, or adopted sibling, or the spouse of the sibling of a
2 covered individual.

3 (g) A person with whom the covered individual has a significant personal
4 bond that could be considered familial in nature.

5 (10) "Federal Family and Medical Leave Act" means the federal law known
6 as the "Family and Medical Leave Act of 1993", 29 U.S.C. 2601 et seq.

7 (11) "Fund" means the Louisiana Family and Medical Leave Account Fund
8 created pursuant to the provisions of this Chapter.

9 (12) "Qualifying military exigency leave" means leave for the family member
10 of a military servicemember for any of the following reasons:

11 (a) Leave needed due to notice that the servicemember is being deployed in
12 seven days or less.

13 (b) Leave to attend military events and related activities of the
14 servicemember.

15 (c) Leave to attend child care and school activities if the leave is directly or
16 indirectly required due to the active duty call or active duty status of a family
17 servicemember.

18 (d) Leave to make financial and legal arrangements due to the
19 servicemember's absence.

20 (e) Leave to attend counseling provided by someone other than a healthcare
21 provider if the need for counseling arises from the active duty or a call to active duty
22 status of a servicemember.

23 (f) Leave to spend time with a servicemember who is on short-term,
24 temporary rest and recuperation leave during his period of deployment. The covered
25 individual may take up to five days of leave for each instance of rest and
26 recuperation.

27 (g) Leave to attend post-deployment activities of the servicemember.

28 (h) Any leave related to issues that arise out of active duty or a call to active
29 duty that the employer and covered individual agree will be covered.

1 (13) "Secretary" means the secretary of the Louisiana Workforce
2 Commission or his successor.

3 (14) "Serious health condition" means an illness, injury, impairment,
4 pregnancy, recuperation from childbirth, including any impairment or injury related
5 to or resulting from domestic abuse, sexual abuse, stalking, or any physical or mental
6 condition that involves inpatient care in a hospital, hospice, or residential medical
7 care facility or continuing treatment by a healthcare provider, and which injury is not
8 eligible for workers' compensation benefits.

9 (15) "State's average weekly wage" means the average weekly wage
10 established for workers' compensation claims.

11 §673. Eligibility for benefits

12 A. Beginning one year after the effective date of this Chapter, family and
13 medical leave benefits shall be payable to an employee who is a "covered individual"
14 and who meets any one of the following situations:

15 (1) Because of birth, adoption, or placement through foster care, the covered
16 individual is caring for a new child during the first year after the birth, adoption, or
17 placement.

18 (2) The covered individual is caring for a family member with a serious
19 health condition that renders the family member unable to care for himself.

20 (3) The covered individual has a serious health condition that makes him
21 unable to perform the functions of his position of employment.

22 (4) The covered individual is caring for a military servicemember who is the
23 covered individual's family member.

24 (5) The leave for the covered individual falls under "qualifying military
25 exigency leave".

26 B. Benefits shall be payable to a covered individual who is employed and
27 paid monies into the Louisiana Family and Medical Leave Account Fund for a base
28 period or the covered individual is employed on a part-time basis and received

1 compensation for a minimum of eight hundred and twenty hours in the last five
2 calendar quarters.

3 §674. Duration of benefits

4 A.(1) The maximum number of weeks for which benefits provided for in this
5 Chapter are payable in an application year is twelve weeks.

6 (2) An additional four weeks may be provided for cases involving a serious
7 health condition.

8 B.(1) Benefits shall not be payable for the first five consecutive calendar days
9 in an application year, or waiting period, that a covered individual is eligible for
10 benefits.

11 (2) If the covered individual uses ten or more days of benefits in an
12 application year, the covered individual shall be paid for the five-day waiting period.
13 This five-day waiting period shall only occur in an application year.

14 (3) Employers shall not require a covered individual to use accrued vacation
15 or sick leave during the waiting period.

16 C. The first payment of benefits shall be made to a covered individual within
17 two weeks after the claim is filed and subsequent payments shall be made twice a
18 month.

19 §675. Amount of benefits

20 A.(1) The amount of benefits provided for in this Chapter shall be based on
21 the covered individual's average weekly wage in relation to the state's average
22 weekly wage.

23 (2) The covered individual's average weekly wage shall be calculated using
24 his earnings during a base period divided by the number of weeks in the benefit year.

25 B. An eligible covered individual's weekly benefit amount shall be
26 determined and paid pursuant to the following parameters:

27 (1) If the covered individual's average weekly wage is less than fifty percent
28 of the state's average weekly wage then he shall be entitled to ninety percent of his
29 average weekly wage.

1 (2) If the covered individual's average weekly wage is equal to or greater
2 than fifty percent of the state's average weekly wage then he shall be entitled to fifty
3 percent of his average weekly wage.

4 C. Benefits shall not be paid for less than one day or for less than eight
5 consecutive hours of family and medical leave in any one work week.

6 §676. Coordination of benefits

7 A. If time taken in which compensation is received pursuant to this Chapter
8 also qualifies as a reason for leave in accordance with the federal Family and
9 Medical Leave Act, the time that benefits are paid pursuant to this Chapter shall run
10 concurrently with leave taken in accordance with the federal Family and Medical
11 Leave Act.

12 B. An employer may require that payments made pursuant to this Chapter be
13 made concurrently or otherwise coordinated with payments made or leave allowed
14 under the terms of disability or family care leave under a collective bargaining
15 agreement or employer policy. An employer shall give the employee written notice
16 of this requirement.

17 C. The provisions of this Chapter shall not be construed to diminish an
18 employer's obligation to comply with a collective bargaining agreement or employer
19 policy, as applicable, that provides greater leave time to an employee. A covered
20 individual's right to leave provided for in this Chapter shall not be diminished by a
21 collective bargaining agreement entered into or renewed, or an employer policy
22 adopted or retained, after the effective date of this Chapter.

23 D. Any agreement by a covered individual to waive his rights pursuant to this
24 Chapter shall be declared null and void and against public policy.

25 §677. Leave and employment protection

26 A. After a period in which a covered individual receives family and medical
27 leave benefits or earns a waiting period credit provided for in R.S. 23:674, the
28 covered individual is entitled to be restored to an equivalent position of employment
29 in the same manner as one entitled to leave in accordance with the federal Family

1 and Medical Leave Act, with the employer from whom leave was taken under the
2 conditions described in Subsection B of this Section, provided the covered individual
3 satisfies the standards for reinstatement.

4 B. The covered individual entitled to family and medical leave benefits shall
5 have his employment benefits continued in a manner identical to that required under
6 the federal Family and Medical Leave Act for the time that the covered individual
7 is absent from work and receiving family and medical leave benefits.

8 §678. Intermittent leave schedule

9 A. A covered individual may take family and medical leave provided for in
10 this Chapter on an intermittent leave schedule, except that the covered individual
11 shall not be entitled to an intermittent leave schedule for a period exceeding twenty-
12 four consecutive weeks unless it is determined to be medically necessary.

13 B. A covered individual shall make a reasonable effort to schedule
14 intermittent leave so as not to unduly disrupt the operations of the employer. The
15 covered individual shall provide the employer with prior notice of the care, medical
16 treatment, or continuing supervision by a healthcare provider necessary due to a
17 serious health condition of a family member, in a manner which is reasonable and
18 practicable. Leave taken on an intermittent leave schedule shall not result in a
19 reduction of the total amount of leave to which a covered individual is entitled.

20 §679. Elective coverage; self-employed

21 A. A self-employed person may elect coverage provided for in this Chapter
22 for an initial period of not less than three years or a subsequent period of not less
23 than one year immediately following another period of coverage. The self-employed
24 person shall file a written notice of election to be covered with the secretary on a
25 form promulgated by the commission. This election by a self-employed person shall
26 become effective on the date of filing the written notice with the secretary.

27 B. A self-employed person who has elected coverage may withdraw from
28 coverage within thirty days after the end of the three-year period of coverage, or at
29 other times as the commission may prescribe by rule, by filing written notice with

1 the secretary, and the withdrawal shall take effect not later than thirty days after
2 filing the written notice with the secretary.

3 §680. Erroneous payments and disqualification for benefits

4 A. A covered individual shall be disqualified from benefits provided for in
5 this Chapter for one year if the covered individual willfully makes a false statement
6 or misrepresentation regarding a material fact, or willfully fails to report a material
7 fact, in order to receive benefits pursuant to this Chapter.

8 B. If family and medical leave benefits are paid erroneously or as a result of
9 willful misrepresentation, or if a claim for family and medical leave benefits is
10 rejected after benefits are paid, the commission may seek repayment of benefits. The
11 secretary may waive, in whole or in part, the amount of any payment to be made if
12 the recovery would be contrary to equity and good conscience.

13 §681. Discrimination prohibited

14 No employer shall discharge, expel, demote, or otherwise discriminate or
15 take adverse employment action against a covered individual because the covered
16 individual has filed, applied for, or used benefits provided for in this Chapter, or
17 communicated to the employer an intent to file a claim, a complaint, or an appeal,
18 or has testified or is about to testify, or has assisted in any proceeding, pursuant to
19 this Chapter, at any time, including during the waiting period and the period in which
20 the covered individual receives benefits provided for in this Chapter.

21 §682. Penalties

22 A.(1) Any covered individual who is denied restoration to an equivalent
23 position, or discriminated against in violation of the provisions of this Chapter shall
24 be entitled to recover a civil penalty payable from the employer of not more than two
25 hundred dollars per violation. Each day a violation occurs shall constitute a separate
26 offense.

27 (2) The provisions of this Section shall not create or be construed to create
28 a new private right of action that is not otherwise available to the covered individual.

1 B. The penalty authorized in this Section shall not exceed the total
2 compensation the covered individual would have received had he not been on family
3 or medical leave.

4 §683. Administration of the program

5 A. The commission shall establish and administer a family and medical leave
6 program and pay benefits as specified in this Chapter.

7 B. The commission shall enforce this Chapter and is authorized and directed
8 to promulgate rules and regulations in accordance with the Administrative Procedure
9 Act, R.S. 49:950 et seq., necessary for the implementation of the provisions of this
10 Chapter.

11 C. The commission shall notify an employer within five business days of a
12 claim being filed pursuant to this Chapter. The commission shall use information
13 sharing and integration technology to facilitate the disclosure of relevant information
14 or records if the covered individual gives written consent to the disclosure as
15 required by law.

16 D.(1) Except as provided in Paragraph (2) of this Subsection, information
17 contained in the files and records pertaining to a covered individual pursuant to this
18 Chapter shall be confidential and not open to public inspection, as provided for in
19 R.S. 44:4.1(B)(12).

20 (2) Information contained in the files and records pertaining to a covered
21 individual pursuant to this Chapter shall be available to any of the following:

22 (a) Public employees in the performance of their official duties.

23 (b) The covered individual.

24 (c) The authorized representative of the covered individual may review
25 records or receive specific information from the records only upon written
26 authorization from the covered individual to release his records.

1 §684. Public outreach

2 A. The commission shall conduct a public education campaign to inform
3 workers and employers regarding the availability of paid family and medical leave
4 benefits.

5 B. The commission may use no more than one-half of one percent of the
6 funds available in the family and medical leave program in a given calendar year to
7 pay for the public education program. Outreach information shall be available in
8 English and other languages spoken by more than five percent of the state's
9 population as that group's primary language.

10 §685. Sharing technology

11 The commission may use state data collection and technology to the extent
12 possible in order to minimize the cost of the program and to integrate the program
13 with existing state policies and programs.

14 §686. Legislative oversight; reports

15 A. Beginning one year after the effective date of this Chapter, the
16 commission shall report quarterly to the House and Senate committees on labor and
17 industrial relations and the committees shall have legislative oversight of the
18 program.

19 B. The report required in this Section shall advise the legislature of projected
20 and actual program participation, premium rates, fund balances, and outreach efforts
21 by the department.

22 §687. Federal income tax

23 If the Internal Revenue Service determines that benefits payable under this
24 Chapter are subject to federal income tax, the commission shall advise a covered
25 individual filing a new claim for family and medical leave benefits, at the time of
26 filing the claim, of all of the following:

27 (1) The Internal Revenue Service has determined that family and medical
28 leave benefits are subject to federal income tax.

29 (2) Any requirement that exists pertaining to estimated tax payments.

1 (3) The covered individual may have federal income tax deducted and
2 withheld from his benefits at the amount specified in the Internal Revenue Code.

3 (4) The covered individual may change a previously elected withholding
4 status.

5 (5) Amounts deducted and withheld from benefits shall remain in the family
6 and medical leave account until transferred to the federal taxing authority as payment
7 of income tax.

8 (6) The secretary shall follow all procedures specified by the Internal
9 Revenue Service pertaining to the deduction and withholding of income tax.

10 §688. Louisiana Family and Medical Leave Account Fund; creation; administration

11 A. There is hereby created in the state treasury a special fund to be known as
12 the "Louisiana Family and Medical Leave Account Fund", hereinafter referred to as
13 the "fund". All monies that are deposited or paid into the fund shall be appropriated
14 and made available to the secretary of the commission and shall be expended solely
15 for the purpose of defraying the cost of the administration of this Chapter and the
16 payment of benefits authorized in this Chapter.

17 B. The fund may receive any and all grants, premiums, or appropriations
18 from the state or the United States, any federal agency, or from any other source, to
19 carry out the provisions of this Chapter.

20 C. After compliance with the requirements of Article VII, Section 9 of the
21 Constitution of Louisiana relative to the Bond Security and Redemption Fund, all
22 monies in the fund shall be deposited, administered, and disbursed in the same
23 manner and under the same conditions and requirements as provided by law for other
24 special funds in the state treasury, except that monies in the fund shall not be
25 commingled with other state funds, but shall be maintained in a separate account in
26 the state treasury. The state treasurer shall, as provided by law, require collateral
27 security from a depository bank in the full amount of monies on deposit from the
28 fund and the depository bank may pledge collateral security which collateral security
29 shall be kept separate and distinct at all times from any collateral taken by the state

1 treasury for other state funds. This collateral security shall be pledged at an amount
2 not to exceed face value. Any balances in the fund shall not lapse at any time, but
3 shall be continuously available to the administrator for expenditure consistent with
4 this Chapter.

5 Section 2. R.S. 44:4.1(B)(12) is hereby amended and reenacted to read as follows:

6 §4.1. Exceptions

7 * * *

8 B. The legislature further recognizes that there exist exceptions, exemptions,
9 and limitations to the laws pertaining to public records throughout the revised
10 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
11 limitations are hereby continued in effect by incorporation into this Chapter by
12 citation:

13 * * *

14 (12) R.S. 23:682, 1177, 1197, 1200.7, 1291, 1292, 1293, 1306, 1660, 1671

15 * * *

16 Section 3. The Louisiana Legislature finds that Louisiana law has historically
17 provided two wage replacement programs to provide income security to employees who find
18 themselves unable to work. First, the unemployment insurance benefit program was enacted
19 for workers who were laid off from their jobs. Second, the workers' compensation benefits
20 system was enacted to cover workers who were injured in the course and scope of
21 employment. Historically, Louisiana has not provided for all other hardships which could
22 render an employee unable to work through no fault of his own; namely those hardships
23 related to an employee's serious sickness or illness, hardships resulting from a family
24 member serving in the military, or hardships related to any other family emergency. The
25 purpose of this Act is to provide for employment benefits related to all other hardships which
26 an employee may encounter other than job layoffs and workers' compensation injuries so as
27 to insure that no worker is involuntarily unemployed due to any fault other than his own.

28 Section 4. The provisions of this Chapter shall not take effect until a bill which
29 originates in the House of Representatives is enacted and becomes effective which provides

1 that monies from family and medical leave premium payments be deposited into the
2 Louisiana Family and Medical Leave Account Fund as provided in this Section, and that is
3 substantially similar to the following:

4 (1) Premium payments shall be paid by employers and employees in an amount equal
5 to sixty-four hundredths of one percent of the maximum amount of wages subject to the
6 federal Social Security Old-Age, Survivors, and Disability Insurance Tax.

7 (2) Premium payments shall be divided between the employer and employee with
8 forty-five percent of the premium being paid by the employer and fifty-five percent of the
9 premium being paid by the employee.

10 Section 5. This Act shall become effective upon signature by the governor or, if not
11 signed by the governor, upon expiration of the time for bills to become law without signature
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
14 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 1003 Original

2022 Regular Session

Carpenter

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, employer, family member, federal Family and Medical Leave Act, fund, qualifying military exigency leave, secretary, serious health condition, and state's average weekly wage.

Proposed law provides that beginning one year 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 servicemember who is the covered individual's family member.
- (5) The leave falls under "qualifying military exigency 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 or to a covered individual who is employed on a part-time basis and received compensation for a minimum of 820 hours in the last five calendar quarters.

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 serious health condition.

Proposed law provides that benefits shall not be payable for the first five consecutive calendar days in an application year or waiting period that a covered individual is eligible for benefits.

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 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 that a covered individual may take family and medical leave on an intermittent leave schedule; however, that intermittent leave schedule shall not exceed 24 consecutive weeks, unless it is determined to be medically necessary.

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 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.

Effective upon the passage of an Act that provides that monies from family and medical leave premium payments be deposited into the La. Family and Medical Leave Act Fund.

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

(Amends R.S. 44.4.1(B)(12); Adds R.S. 23:671-688)