



House of Representatives

General Assembly

File No. 171

February Session, 2000

Substitute House Bill No. 5619

House of Representatives, March 22, 2000

The Committee on Labor and Public Employees reported through REP. DONOVAN of the 84th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Paid Family And Medical Leave.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (4) of section 31-51kk of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (4) "Employer" means a person engaged in any activity, enterprise
4 or business who employs [seventy-five] fifteen or more employees,
5 and includes any person who acts, directly or indirectly, in the interest
6 of an employer to any of the employees of such employer and any
7 successor in interest of an employer, but shall not include the state, a
8 municipality, a local or regional board of education, or a private or
9 parochial elementary or secondary school. The number of employees
10 of an employer shall be determined on October first annually.

11 Sec. 2. (NEW) (a) Effective July 1, 2001, any individual who (1)
12 meets the monetary eligibility requirements set forth in chapter 567 of

13 the general statutes, and (2) takes a leave of absence from employment
14 (A) in order to care for the spouse, or a son, daughter or parent of the
15 individual, if such spouse, son, daughter or parent has a serious health
16 condition, or (B) because of a serious health condition of such
17 individual, shall be entitled to receive family and medical leave
18 benefits from the Family and Medical Leave Insurance Fund
19 established under section 3 of this act for a maximum of twelve weeks
20 during any twelve-month period, such twelve-month period to begin
21 with the first day of leave taken. For purposes of this section: (i)
22 "Parent" has the same meaning as in subdivision (7) of section 31-51kk
23 of the general statutes; (ii) "serious health condition" has the same
24 meaning as in subdivision (10) of said section 31-51kk; (iii) "son or
25 daughter" has the same meaning as in subdivision (11) of said section
26 31-51kk; and (iv) "spouse" has the same meaning as in subdivision (12)
27 of said section 31-51kk.

28 (b) Except as provided in subsection (c) of this section, the weekly
29 benefit amount of family and medical leave benefits payable to an
30 individual under this section shall be equal to such individual's total
31 unemployment benefit rate, calculated pursuant to section 31-231a of
32 the general statutes, plus a dependency allowance in an amount equal
33 to that provided under section 31-234 of the general statutes, as
34 amended by public act 99-154 and public act 99-1 of the June special
35 session.

36 (c) Any individual whose weekly benefit payable under this section
37 is less than forty-seven per cent, rounded to the next lower dollar, of
38 the average weekly wage of production and related workers in the
39 state, as determined by the Labor Commissioner pursuant to
40 subsection (b) of section 31-231a of the general statutes, shall be
41 entitled to receive a weekly benefit equal to the lesser of (1) one
42 hundred per cent, rounded to the next lower dollar, of such
43 individual's total weekly earnings, or (2) forty-seven per cent, rounded
44 to the next lower dollar, of the average weekly wage of production and

45 related workers in the state, as determined by the Labor Commissioner
46 pursuant to subsection (b) of section 31-231a of the general statutes.

47 (d) (1) No individual may receive family and medical leave benefits
48 under this section for a week in which the individual receives a wage
49 replacement equal to or greater than the weekly benefit provided by
50 this section under any of the following: (A) Any government program
51 or law, including, but not limited to, the unemployment compensation
52 program established under chapter 567 of the general statutes, the
53 workers' compensation program established under chapter 568 of the
54 general statutes, other than for permanent partial disability incurred
55 prior to the claim for family and medical leave benefits, or under other
56 state or federal temporary or permanent disability benefits law, (B) a
57 permanent disability policy or program of an employer, (C) a
58 temporary disability policy program of an employer, or (D) a paid sick,
59 vacation, family or medical leave policy of an employer.

60 (2) For a week in which an individual receives a wage replacement
61 less than the weekly benefit amount provided by this section, the
62 individual shall receive family and medical leave benefits equal to the
63 difference between the weekly benefit amount provided by this section
64 and the amount of wage replacement received by such individual.

65 (e) On or before January 1, 2001, the Labor Commissioner shall
66 adopt regulations, in accordance with the provisions of chapter 54 of
67 the general statutes, to establish procedures and guidelines necessary
68 to implement the provisions of this section, including, but not limited
69 to, procedures for the filing of claims, procedures for hearings and
70 redress and procedures for the periodic reporting by employers to the
71 commissioner of their current experience with leaves of absence taken
72 pursuant to this section.

73 Sec. 3. (NEW) (a) There is created in the office of the State Treasurer
74 a special segregated fund to be known as the Family and Medical
75 Leave Insurance Fund. Said fund shall consist of all contributions and

76 moneys paid into or received by it for the payment of family and
77 medical leave benefits pursuant to section 2 of this act, of any property
78 or securities acquired from the use of moneys belonging to the fund,
79 all interest earned thereon and all moneys received for the fund from
80 any other source. All moneys in said fund shall be expended solely for
81 the payment of benefits and expenses provided for by section 2 of this
82 act. The Labor Commissioner shall maintain a separate record of the
83 deposit, obligation, expenditure and return of funds so deposited. The
84 State Treasurer shall be liable on the Treasurer's official bond for the
85 faithful performance of the Treasurer's duties in connection with the
86 Family and Medical Leave Insurance Fund. All sums recovered on any
87 surety bond for losses sustained by the Family and Medical Leave
88 Insurance Fund shall be deposited in said fund.

89 (b) Effective June 30, 2000, and annually thereafter, the Labor
90 Commissioner shall determine the contribution rate for each employer,
91 except employers that secure family and medical leave benefits for
92 employees in any of the following ways:

93 (1) By insuring and keeping insured the payment of employment
94 leave benefits with a stock, mutual, reciprocal or other insurer
95 authorized to transact the business of disability insurance in this state,
96 provided the benefits under the policy are at least equivalent to the
97 benefits provided by section 2 of this act and such policy does not
98 require contributions from any employee or class of employees;

99 (2) By a private plan or agreement that the employer may, by the
100 employer's sole act, terminate at any time, provided the benefits under
101 the plan or agreement are at least as favorable as the benefits provided
102 under section 2 of this act and the policy does not require contributions
103 of any employee or class of employees; or

104 (3) By any plan or agreement in existence by agreement or collective
105 bargaining agreement between an employer and an employee
106 organization, provided the benefits under the agreement are at least

107 equivalent to the benefits provided under section 2 of this act and do
108 not require contributions from any employee or class of employees.

109 (c) All contributions made in accordance with subsection (b) of this
110 section and all other moneys payable into the fund, upon receipt
111 thereof by the Labor Commissioner, shall be paid to the State
112 Treasurer, who shall deposit them in the Family and Medical Leave
113 Insurance Fund.

114 (d) The State Treasurer, as treasurer of the Family and Medical
115 Leave Insurance Fund, shall, as directed by the Labor Commissioner,
116 requisition from the Family and Medical Leave Insurance Fund such
117 amounts, not exceeding the amount standing to this state's account
118 therein, as the Labor Commissioner deems necessary for the payment
119 of benefits in accordance with section 2 of this act. Upon receipt
120 thereof, the Treasurer shall deposit such moneys in a depository
121 designated by the Treasurer in an account to be known as the family
122 and medical leave insurance account, from which account the Labor
123 Commissioner shall pay the benefits provided by section 2 of this act.
124 The Labor Commissioner shall be liable on the commissioner's official
125 bond for the faithful performance of the commissioner's duties in
126 connection with the family and medical leave insurance account. All
127 sums recovered on any surety bond for losses sustained by the family
128 and medical leave insurance account shall be deposited in the family
129 and medical leave insurance account in the office of the State
130 Treasurer.

131 Sec. 4. (NEW) (a) In addition to the leave provided in sections 5-248a
132 and 31-511l of the general statutes, an employee shall be entitled to take
133 unpaid leave not to exceed four hours in any thirty-day period and not
134 to exceed twenty-four hours in any twelve-month period. An employer
135 may require that leave be taken in a minimum of two-hour segments
136 and may be taken for any of the following purposes:

137 (1) To participate in preschool or school activities directly related to

138 the academic educational advancement of the employee's child, such
139 as a parent-teacher conference;

140 (2) To attend or accompany the employee's child or the employee's
141 parent, spouse or parent-in-law to routine medical or dental
142 appointments;

143 (3) To accompany the employee's parent, spouse or parent-in-law to
144 other appointments for professional services related to their care and
145 well-being; or

146 (4) To respond to a medical emergency involving the employee's
147 child or the employee's parent, spouse or parent-in-law.

148 (b) An employee taking leave under this section shall make a
149 reasonable attempt to schedule appointments for which leave may be
150 taken under this section outside of regular work hours. In order to take
151 leave under this section, an employee shall provide the employer with
152 the earliest possible notice, but in no case later than seven days, before
153 leave is to be taken, except when the required seven-day notice could
154 have a significant adverse impact on the family member of the
155 employee.

156 (c) At the employee's discretion, the employee may substitute
157 accrued paid leave, including vacation, sick and personal leave, for
158 leave taken under this section.

159 Sec. 5. (NEW) (a) An individual who is on a leave of absence from
160 employment or who has left employment to be with the individual's
161 child during the first year of life, or during the first year following
162 placement with the individual for adoption, shall not be denied
163 unemployment compensation benefits under the provisions of section
164 31-236 of the general statutes, as amended by public act 99-123, for
165 failing to either apply for or accept available, suitable employment or
166 for voluntarily leaving suitable employment, provided such individual

167 is otherwise eligible to receive unemployment compensation benefits
168 under the provisions of chapter 567 of the general statutes.

169 (b) Unemployment compensation benefits shall be payable under
170 chapter 567 of the general statutes to an individual who is on a leave of
171 absence from employment or who has left employment to be with the
172 individual's child during the first year of life, or during the first year
173 following placement with the individual for adoption for a maximum
174 of twelve weeks per year. Such benefits shall be in addition to the
175 maximum limitation on total benefits set forth in section 31-231b of the
176 general statutes.

177 (c) The amount of unemployment compensation payable to an
178 individual who is on a leave of absence from employment or who has
179 left employment to be with the individual's child during the first year
180 of life, or during the first year following placement with the individual
181 for adoption shall be reduced by the amount of the deductions
182 specified in subsections (g), (h) and (j) of section 31-227 of the general
183 statutes and subdivision (4) of subsection (a) of section 31-236 of the
184 general statutes, as amended by public act 99-123.

185 (d) Notwithstanding the provisions of section 31-231a of the general
186 statutes, any individual entitled to receive unemployment
187 compensation benefits under this section whose weekly benefit is less
188 than forty-seven per cent, rounded to the next lower dollar, of the
189 average weekly wage of production and related workers in the state,
190 as determined by the Labor Commissioner pursuant to subsection (b)
191 of section 31-231a of the general statutes shall be entitled to receive a
192 weekly benefit equal to the lesser of (1) one hundred per cent, rounded
193 to the next lower dollar, of such individual's total weekly earnings, or
194 (2) forty-seven per cent, rounded to the next lower dollar, of the
195 average weekly wage of production and related workers in the state,
196 as determined by the Labor Commissioner pursuant to said subsection
197 (b) of section 31-231a of the general statutes. Such individual shall not

198 be entitled to receive a dependency allowance under section 31-234 of
199 the general statutes, as amended by public act 99-154 and section 44 of
200 public act 99-1 of the June special session, if the dependency allowance
201 plus the individual's total weekly benefit exceeds such individual's
202 total weekly earnings.

203 (e) No individual employer's experience account shall be charged
204 with respect to unemployment compensation paid to an individual
205 who took a leave of absence from employment or who voluntarily left
206 employment to be with the individual's child during the first year of
207 life, or during the first year following placement with the individual
208 for adoption.

209 (f) Each employer shall post at each site operated by the employer in
210 a conspicuous place, accessible to all employees, information relating
211 to the availability of unemployment compensation to any individual
212 who takes a leave of absence from employment or who otherwise
213 leaves employment to be with the individual's child during the first
214 year of life, or during the first year following placement with the
215 individual for adoption.

216 (g) Not later than two years following the effective date of this act,
217 the administrator shall issue a report to the Governor and the General
218 Assembly evaluating the effectiveness of making unemployment
219 compensation benefits available to any individual who takes a leave of
220 absence from employment or who leaves employment to be with the
221 individual's child during the first year of life, or during the first year
222 following placement with the individual for adoption.

223 Sec. 6. This act shall take effect from its passage.

LAB Committee Vote: Yea 9 Nay 4 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost

Affected Agencies: Department Of Labor, State Treasurer, All State Agencies

Municipal Impact: Potential Indeterminate Cost

Explanation

State Impact:

There is an estimated cost of \$2,000,000 for the state as a result of the passage of this bill. The bill allows any individual who meets the monetary eligibility requirements in chapter 567 of the general statutes and takes a leave of absence from employment in order to care for a spouse, son or daughter or parent with a serious health condition shall be entitled to receive family and medical leave benefits. These benefits are calculated according to an employee's unemployment compensation benefits.

The bill allows an individual taking this leave a maximum of 12 paid weeks. It is estimated that approximately 650 state employees will take this leave annually at an annual cost of \$3,060. In 1995, about 65 state workers took time off relating to the family and medical leave act which provides unpaid leave. With this bill establishing paid leave, it is estimated that that participation will increase by 10 times that amount.

The unemployment compensation fund will incur a cost of approximately \$12,240,000. It is estimated that approximately 4,000 employees will participate in paid family and medical leave at a cost of \$255 for 12 weeks.

These benefits will be paid from the Family and Medical Leave Insurance Fund. This fund will be created in the Office of the State Treasurer. The administrative cost to establish this fund is minimal. The Labor Commissioner shall determine the contribution rate for each employer. Moneys payable into the fund, upon receipt by the Labor Commissioner, shall be paid to the State Treasurer, who shall deposit them into the Family and Medical Leave Fund.

The Department of Labor will be responsible for maintaining a separate record of the deposit, obligation, and return of funds so deposited in the Family and Medical Leave Insurance Fund. The department will also be responsible for adopting regulations to establish provisions and guidelines pertaining to paid family and medical leave. The department will also be responsible for handling claims for benefits. The department will need an additional 3 staff positions to handle the claims at a cost of \$203,379. An additional computer programming cost of \$225,000 will also be required.

Municipal Impact:

To the extent that municipal employees participate in family and medical leave, there will be a potential cost to municipal employers. The number of these employees participating is uncertain. Therefore, an estimated cost for all municipalities in the state cannot be determined.

OLR Bill Analysis

sHB 5619

AN ACT CONCERNING PAID FAMILY AND MEDICAL LEAVE.

SUMMARY:

This bill provides up to 12 weeks of cash benefits to employees who take a leave of absence from or otherwise leave their job to care for (1) a newborn child or a newly adopted child, (2) a seriously ill family member, or (3) their own illness. To qualify for benefits, employees must meet the monetary eligibility requirements for unemployment compensation benefits.

The Unemployment Compensation Fund pays benefits for leave to care for a new child. Employer's unemployment compensation experience tax rates are not affected by their employees' receipt of these benefits. A newly created Family and Medical Leave Insurance (FMLI) Fund pays for benefits for leave to care for a seriously ill family member or the employee's own serious illness. The labor commissioner annually determines the amount employers need to contribute to this fund to pay for benefits.

The bill expands the state Family and Medical Leave Act (FMLA) to cover employers with 15 or more employees. Currently, the act covers employers with 75 or more employees. The federal FMLA covers employers with 50 or more employees.

The bill allows employees covered by the state FMLA to take up to four hours of unpaid leave a month, with a cap of 24 hours per year, to attend various family-related appointments. Employees can choose to substitute paid vacation, sick, or personal leave for these forms of leave.

Finally, the bill requires:

1. the labor commissioner to establish regulations to implement provisions concerning FMLI-funded leave;
2. the labor commissioner to report to the governor and the General Assembly on the effectiveness of providing paid leave to care for a new child; and
3. employers to post at each of their worksites in a conspicuous place that all employees have access to information about the availability of unemployment compensation to individuals who take a leave of absence or otherwise leave their job to care for a newborn or newly adopted child.

EFFECTIVE DATE: Upon passage, except that (1) provisions requiring the labor commissioner to establish employer FMLI Fund contribution rates take effect June 30, 2000 and (2) provisions providing benefits for leave relating to a serious illness take effect July 1, 2001.

BIRTH OR ADOPTION LEAVE

Benefit Duration and Eligibility

The bill provides up to 12 weeks of unemployment compensation benefits a year for claimants who have left their job to care for a newborn child or newly adopted child. Employees may take this leave up to the time the child reaches age one, or, in the case of an adopted child, up to one year after the child has been placed with the family.

Claimants must meet unemployment compensation monetary requirements, which means that they must have earned at least 40 times the amount of their weekly benefit in their base period. For example, if an individual's weekly benefit is \$300, he must have earned \$12,000 in his base period ($\$300 \times 40 = \$12,000$). The base period is the first four of the five most recently completed quarters prior to the date the claim is filed.

Individuals who receive birth and adoption unemployment compensation benefits remain eligible to receive up to 26 weeks of regular unemployment compensation benefits.

Benefit Amount

In general. Claimants' benefits are calculated in the same manner as regular unemployment benefits except that the bill establishes a higher minimum benefit. In general, unemployment compensation benefits replace 50% of a claimant's average salary for the two highest quarters in his base period. Weekly benefits may not be more than the current statutorily-set maximum (currently \$382).

Minimum amount. The bill establishes a minimum weekly benefit of the lesser of (1) \$299 or (2) the claimant's weekly earnings. A claimant receiving the minimum benefit is ineligible for a dependency allowance if it would increase his weekly benefit to more than his weekly earnings. The dependency allowance is \$15 per dependent up to a weekly maximum of \$75.

Reductions. The bill requires a claimant's benefits to be reduced by the amount of (1) any federal income taxes (if the claimant chooses to have these taxes withheld); (2) child support obligations; (3) severance package payments, unless the claimant had to waive certain legal rights; and (3) certain pension payments.

MEDICAL LEAVE BENEFITS***Benefit Duration and Eligibility***

The bill provides up to 12 weeks of FMLI Fund benefits a year for claimants who have left their job to care for a seriously ill spouse, child, parent, or parent-in-law, or the claimant's own serious illness. The terms "spouse," "parent," "son or daughter," and "serious health condition" have the same meaning they have under the state FMLA.

Claimants must meet unemployment compensation monetary requirements, which means that they must have earned at least 40 times the amount of their weekly FMLI benefit in their base period. For example, if an individual's weekly benefit is \$300, he must have earned \$12,000 in his base period ($\$300 \times 40 = \$12,000$). The base period is the first four of the five of the most recently completed quarters prior to the date the claim is filed.

Benefit Amount

In general. Claimants' benefits are calculated in the same manner as regular unemployment benefits except that the bill establishes a higher minimum benefit and has different benefit offset provisions. In general, unemployment compensation benefits replace 50% of a claimant's average salary for the two highest quarters in his base period. Weekly benefits may not be higher than the statutorily-set maximum (currently \$382).

Minimum amount. The bill establishes a weekly minimum benefit of the lesser of (1) \$299 or (2) the claimant's weekly earnings. A claimant receiving the minimum benefit is ineligible for a dependency allowance if it would cause his weekly benefit to exceed his weekly earnings. The dependency allowance is \$15 per dependent up to a weekly maximum of \$75.

Reductions. The bill requires a claimant's benefits to be reduced by the amount of any wage replacement he receives from any governmental program or any law including unemployment compensation and workers' compensation benefits. But benefits are not reduced by (1) workers' compensation permanent, partial disability benefits if the claimant incurred the injury before the claim was filed; (2) permanent or temporary disability benefits under a government-sponsored plan; (3) permanent or temporary disability benefits received under an employer-sponsored policy or program; or (4) paid leave provided under an employer's sick, vacation, family or medical leave policy.

Funding

The bill establishes the Family and Medical Leave Insurance Fund in the state treasurer's office and places the following requirements on it.

1. It must be used exclusively to pay benefits to claimants who take a leave of absence or otherwise leave their job to care for themselves, a spouse, child, parent, or parent-in-law, because of a serious illness.
2. It must consist of all contributions paid into it, any interest earned, and all amounts recovered on surety bonds for losses

incurred by the fund.

The state treasurer:

1. is liable on her official bond to faithfully perform her duties with regard to the fund;
2. must deposit any money received by the labor commissioner into the fund; and
3. must remove from the fund amounts that the labor commissioner asks her to so he may make benefit payments, and she must put the funds in an account that must be called the Family and Medical Leave Insurance Account;

The labor commissioner:

1. must keep a separate record of FMLI Fund deposits, obligations, expenditures, and returns;
2. must pay all employer contributions to the state treasurer;
3. must pay for medical leave benefits from the family and medical leave insurance account;
4. is liable on his official bond to faithfully perform his duties with regard to the account; and
5. must annually each June 30, beginning in 2000, determine employer contribution rates.

Employer Contribution Exemptions

The bill exempts from annual contributions to the FMLI Fund employers who provide leave benefits at least equal to FMLI Fund benefits through (1) a disability insurance plan, (2) a private plan or agreement, or (3) a plan or agreement in place under a collective bargaining agreement. The employer is ineligible for the exemption if its employees must contribute to any leave plan or agreement.

FAMILY-RELATED APPOINTMENT LEAVE

The bill allows employees covered by the state FMLA to take up to four hours a month and up to 24 hours a year in unpaid leave to:

1. attend a child's school activities that are related to their academic, educational advancement and
2. attend or take their child, spouse, parent, or parent-in-law to routine medical and dental appointments, emergency medical visits, and professional services related to their well-being or care.

Employees must make reasonable attempts to schedule appointments outside of work hours. They must give their employer at least seven days notice that they intend to take this leave, unless the notice has a significant, adverse impact on the family member.

BACKGROUND***Related Federal Law***

The U.S. Labor Department proposed regulations in December 1999 that allow states to provide unemployment compensation benefits to individuals who leave their jobs, either temporarily or permanently, to care for a newborn or newly adopted child.

States that choose to administer a birth and adoption unemployment compensation program must comply with certain federal provisions. They have discretion in designing key elements of programs, including most eligibility requirements, benefit amount and duration, employment and earnings eligibility requirements, and employer funding methods.

The regulations establish exemption from the federal unemployment compensation law's requirement that claimants be "able and available" to work. Other exemptions from this provision already exist.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4