



# Senate

General Assembly

**File No. 432**

February Session, 2022

Substitute Senate Bill No. 422

*Senate, April 12, 2022*

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE ESSENTIAL WORKERS COVID-19 ASSISTANCE PROGRAM.***

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

1 Section 1. Section 31-900 of the 2022 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective from passage*):

4 (a) As used in this section and section 31-290a:

5 (1) "Affected person" means an essential employee who died or was  
6 unable to work as a result of contracting COVID-19, or due to symptoms  
7 that were later diagnosed as COVID-19, at any time between March 10,  
8 2020, and July 20, 2021, provided: (A) The contraction of COVID-19 by  
9 such employee is confirmed by a positive laboratory test or, if a  
10 laboratory test was not available for the employee, as diagnosed and  
11 documented by the employee's licensed physician, licensed physician  
12 assistant or licensed advanced practice registered nurse, based on the

13 employee's symptoms; (B) a copy of the positive laboratory test or the  
14 written documentation of the physician's, physician assistant's or  
15 advanced practice registered nurse's diagnosis is provided to the  
16 administrator; and (C) such employee, during the fourteen consecutive  
17 days immediately preceding the date the employee died or was unable  
18 to work due to contracting COVID-19, (i) was not employed in a  
19 capacity where the employee worked solely from home and did not  
20 have physical interaction with other employees, or (ii) was the recipient  
21 of a written offer or directive from such employee's employer to work  
22 solely from home but otherwise chose to work at a work site of the  
23 employer. "Affected person" does not include a federal employee who  
24 qualifies for benefits under the COVID-19 workers' compensation  
25 presumption included in the American Rescue Plan Act of 2021;

26 (2) "Affected employee" means an essential employee who, at any  
27 time between July 21, 2021, and the end of the public health and civil  
28 preparedness emergencies declared by the Governor on March 10, 2022,  
29 and extended by the General Assembly on February 14, 2022, or any  
30 extension of such declaration, is unable to perform the functions of such  
31 essential employee's job due to an eligible reason for leave, provided an  
32 affected employee shall not include an essential employee who (A)  
33 during the fourteen consecutive days immediately preceding the  
34 eligible reason for leave, was employed in a capacity where such  
35 affected employee worked solely from home and did not have physical  
36 interaction with other employees, or (B) was the recipient of a written  
37 offer or directive from such essential employee's employer to work  
38 solely from home but otherwise chose to work at a work site of the  
39 employer;

40 (3) "Eligible reason for leave" means:

41 (A) The affected employee's need to (i) self-isolate and care for oneself  
42 because the affected employee has been diagnosed with COVID-19, is  
43 experiencing symptoms of COVID-19 or has been exposed to someone  
44 diagnosed with COVID-19, (ii) seek preventive care concerning COVID-  
45 19, (iii) seek or obtain medical diagnosis, care or treatment if

46 experiencing symptoms of COVID-19, or (iv) seek or obtain COVID-19  
47 immunization or immunizations, including booster doses, or recover  
48 from any injury, disability, illness or condition related to such  
49 immunization or booster doses;

50 (B) The affected employee's need to comply with an order or  
51 determination to self-isolate, on the basis that the affected employee's  
52 physical presence at work or in the community would likely jeopardize  
53 the affected employee's health, the health of other employees or the  
54 health of an individual in the affected employee's household because of  
55 (i) possible exposure to COVID-19, or (ii) the employee is exhibiting  
56 symptoms of COVID-19, regardless of whether the affected employee  
57 has been diagnosed with COVID-19;

58 (C) The affected employee's inability to work because the affected  
59 employee is (i) prohibited from working by his or her employer due to  
60 health concerns related to the potential transmission of COVID-19, (ii)  
61 subject to an individual or general local, state or federal quarantine or  
62 isolation order, including a shelter-in-place or stay-at-home order,  
63 related to COVID-19, or (iii) seeking or awaiting the results of a  
64 diagnostic test for, or a medical diagnosis of, COVID-19 and such  
65 affected employee has been exposed to COVID-19 or the affected  
66 employee's employer has requested such test or diagnosis;

67 (D) The affected employee's need to care for or assist a family member  
68 who is (i) self-isolating, seeking preventative care or seeking or  
69 obtaining medical diagnosis, care, treatment or immunizations or  
70 booster doses, or recovering from such immunizations or booster doses,  
71 or (ii) self-isolating due to an order or determination as described in  
72 subparagraph (B) of this subdivision;

73 (E) The affected employee's need to care for a family member (i) when  
74 the care provider of such family member is unavailable due to COVID-  
75 19, or (ii) if the family member's school or place of care has been closed  
76 by a local, state or federal public official or at the discretion of the school  
77 or place of care, due to COVID-19, including if a school or place of care  
78 (I) is physically closed but providing virtual learning instruction, (II)

79 requires or makes optional virtual learning instruction, or (III) requires  
80 or makes available a hybrid or in-person and virtual learning instruction  
81 models; or

82 (F) The affected employee's inability to work because the affected  
83 employee has a health condition that may increase susceptibility to or  
84 risk of COVID-19, including, but not limited to, age, heart disease,  
85 asthma, lung disease, diabetes, kidney disease or a weakened immune  
86 system;

87 ~~[(2)]~~ (4) "Essential employee" means any person employed in a  
88 category recommended by the Centers for Disease Control and  
89 Prevention's Advisory Committee on Immunization Practices as of  
90 February 20, 2021, to receive a COVID-19 vaccination in phase 1a, [or]  
91 1b or 1c of the COVID-19 vaccination program;

92 ~~[(3)]~~ (5) "Administrator" means an employee of the Office of the  
93 Comptroller, or a third-party administrator;

94 ~~[(4)]~~ (6) "Assistance" means moneys payable by the Comptroller from  
95 the Connecticut Essential Workers COVID-19 Assistance Fund,  
96 established pursuant to subsection (c) of this section, to assist affected  
97 persons and affected employees pursuant to this section;

98 ~~[(5)]~~ (7) "Uncompensated leave" means the wages or salary lost by (A)  
99 an affected person unable to work as a result of contracting COVID-19,  
100 or due to symptoms that were later diagnosed as COVID-19, at any time  
101 during the public health and civil preparedness emergencies declared  
102 by the Governor on March 10, 2020, or any extension of such  
103 declarations, or (B) an affected employee as a result of an eligible reason  
104 for leave. "Uncompensated leave" does not include any leave from  
105 employment for which the affected person or affected employee  
106 received paid leave provided through a paid leave plan provided by an  
107 employer or pursuant to any state or federal law;

108 ~~[(6)]~~ (8) "COVID-19" means the respiratory disease designated by the  
109 World Health Organization on February 11, 2020, as coronavirus 2019,

110 and any related mutation thereof recognized by the World Health  
111 Organization as a communicable respiratory disease; and

112 (9) "Family member" has the same meaning as set forth in section 31-  
113 51kk.

114 (b) There is established the Connecticut Essential Workers COVID-19  
115 Assistance Program. The program shall offer assistance, within  
116 available funds and on a first-come, first-served basis, to affected  
117 persons and affected employees eligible for assistance under this  
118 section, pending verification of eligibility, provided no assistance shall  
119 be paid to any affected person after June 30, 2024. The program shall be  
120 administered by the administrator. The administrator shall accept  
121 applications for assistance on or after October 1, 2021. For the purposes  
122 of this section, the administrator shall be authorized to (1) determine  
123 whether an affected person or affected employee meets the  
124 requirements for eligibility for assistance under this section and the  
125 amount of assistance that should be provided; (2) summon and examine  
126 under oath such witnesses that may provide information relevant to the  
127 eligibility of an affected person or affected employee, and direct the  
128 production of, and examine or cause to be produced or examined, such  
129 books, records, vouchers, memoranda, documents, letters, contracts or  
130 other papers in relation to any matter at issue as the administrator may  
131 find proper; and (3) take or cause to be taken affidavits or depositions  
132 within or without the state.

133 (c) There is established an account to be known as the "Connecticut  
134 Essential Workers COVID-19 Assistance Fund" which shall be a  
135 separate, nonlapsing account within the General Fund. The account  
136 shall contain any moneys required by law to be deposited in the account.  
137 Moneys in the account shall be expended by the Comptroller at the  
138 discretion of the administrator for the purposes of (1) assistance offered  
139 under the Connecticut Essential Workers COVID-19 Assistance  
140 Program, and (2) costs and expenses of operating the program,  
141 including the hiring of necessary employees and the expense of public  
142 outreach and education regarding the program and fund, provided not

143 more than five per cent of the total moneys received by the fund shall  
144 be used for any administrative costs, including hiring temporary or  
145 durational staff or contracting with a third-party administrator, or other  
146 costs and expenses incurred by the administrator or Comptroller in  
147 connection with carrying out the provisions of this section and  
148 subsection (a) of section 31-306. The administrator shall make all  
149 reasonable efforts to limit the costs and expenses of operating the  
150 program without compromising affected persons' and affected  
151 employees' access to the program.

152 (d) (1) To apply for assistance from the Connecticut Essential Workers  
153 COVID-19 Assistance Fund, an affected person with a pending workers'  
154 compensation claim under chapter 568, related to COVID-19, or an  
155 affected person who does not have such pending workers'  
156 compensation claim, shall submit a claim to the administrator, in such  
157 form as required by the administrator, not later than July 20, 2022. An  
158 affected person who does not have a pending workers' compensation  
159 claim related to COVID-19 shall submit a claim to the administrator, in  
160 such form as required by the administrator, not later than one year after  
161 the date such person was initially unable to work as a result of  
162 contracting COVID-19 or due to symptoms that were later diagnosed as  
163 COVID-19 or July 20, 2022, whichever is later. Any such claim shall  
164 include: [(1)] (A) A certificate issued by a licensed medical professional  
165 documenting the laboratory test or diagnosis that such affected person  
166 contracted COVID-19 [(A)] (i) requiring such person to isolate and  
167 quarantine from others, [(B)] (ii) preventing such affected person from  
168 performing such affected person's employment duties, or [(C)] (iii)  
169 requiring in-patient or outpatient medical treatment; [(2)] (B) for the  
170 purposes of requesting assistance for uncompensated leave, evidence of  
171 [(A)] (i) such affected person's weekly earnings during the eight  
172 calendar weeks immediately preceding the time of diagnosis, except in  
173 the case of an employee who has not yet worked for that employer for  
174 an eight-week period, for the time period such employee was employed,  
175 and [(B)] (ii) uncompensated leave due to the contraction of COVID-19  
176 or symptoms that were later diagnosed as COVID-19; [(3)] (C) for the  
177 purposes of requesting assistance for out-of-pocket costs for medical

178 and surgical aid or hospital or nursing service, evidence of such affected  
179 person's costs; and [(4)] (D) any additional information as requested or  
180 required by the administrator.

181 (2) To apply for assistance from the Connecticut Essential Workers  
182 COVID-19 Assistance Fund, an affected employee shall submit a claim  
183 to the administrator, in such form as required by the administrator. Any  
184 such claim shall include: (A) Evidence of such affected employee's  
185 hourly earnings during the eight calendar weeks immediately  
186 preceding the date that such employee was unable to work due to an  
187 eligible reason for leave; (B) the amount of uncompensated leave  
188 incurred by the affected employee due to being unable to work because  
189 of an eligible reason for leave; and (C) any additional information as  
190 requested or required by the administrator.

191 (e) (1) The level of assistance offered to an affected person shall be  
192 calculated as follows, subject to available funds, and payable on a  
193 retroactive basis from the date such person was initially unable to work  
194 as a result of contracting COVID-19 or due to symptoms that were later  
195 diagnosed as COVID-19, but not earlier than March 10, 2020, and not  
196 later than July 20, 2021: [(1)] (A) Weekly assistance for all  
197 uncompensated leave, calculated as seventy-five per cent of such  
198 affected person's average weekly earnings during the eight calendar  
199 weeks immediately preceding the date such person was initially unable  
200 to work as a result of contracting COVID-19, or due to symptoms that  
201 were later diagnosed as COVID-19, except in the case of an employee  
202 who has not yet worked for that employer for an eight-week period,  
203 seventy-five per cent of such affected person's average weekly earnings  
204 for the time period such employee was employed, and after such  
205 earnings have been reduced by any deduction for: [(A)] (i) Federal or  
206 state taxes, or both; [(B)] (ii) the federal Insurance Contributions Act,  
207 provided such assistance shall not exceed the average weekly earnings  
208 of all workers in the state as calculated by the Labor Commissioner,  
209 pursuant to section 31-309; and [(C)] (iii) any benefits received for total  
210 or partial unemployment as provided in chapter 567, and any amount  
211 of temporary total or temporary partial disability benefits under chapter

212 568, for the same days of such claimed assistance; [, (2)] (B) all  
213 documented out-of-pocket COVID-19 related costs for medical and  
214 surgical aid or hospital and nursing service incurred directly as a result  
215 of such affected person contracting COVID-19, including, but not  
216 limited to, medical rehabilitation services, mental health therapy  
217 services and prescription drugs; [,] and [(3)] (C) burial expenses in the  
218 amount of three thousand dollars in any case in which an employee died  
219 due to contracting COVID-19 during [(A)] (i) the public health and civil  
220 preparedness emergencies declared by the Governor on March 10, 2020,  
221 or any extension of such declarations, or [(B)] (ii) any new public health  
222 and civil preparedness emergencies declared by the Governor as a result  
223 of a COVID-19 outbreak in this state.

224 (2) The level of assistance provided to an affected employee, subject  
225 to available funds, and payable on a retroactive basis from the date such  
226 employee was initially unable to work due to an eligible reason for  
227 leave, but not earlier than July 21, 2021, shall be one hundred per cent of  
228 such affected employee's hourly uncompensated leave, provided such  
229 assistance for any affected employee shall not exceed eighty hours of  
230 uncompensated leave.

231 (f) The administrator shall promptly review all claims submitted  
232 pursuant to this section. The administrator shall evaluate each claim and  
233 determine, on the basis of information provided by the affected person  
234 or affected employee, or additional information provided at the request  
235 of the administrator, whether or not such claim should be approved  
236 and, if approved, the amount of assistance offered. The administrator  
237 shall provide such determination, in writing, to such affected person or  
238 affected employee not later than sixty business days after having  
239 received the notice of claim, or, if the administrator requested additional  
240 information, not later than ten business days after receiving such  
241 additional information, and shall direct the Comptroller to pay any such  
242 assistance offered to such affected person or affected employee in the  
243 amount and for the duration determined by the administrator, if  
244 applicable.



245 (g) For purposes of this section, a pending workers' compensation  
246 claim submitted by an affected person or affected employee shall not  
247 prevent the administrator from approving such person's claim for  
248 assistance under this section, provided any workers' compensation  
249 benefits such affected person receives for the workers' compensation  
250 claim shall be offset by the amount of assistance such affected person  
251 receives for uncompensated leave under this section, as deemed  
252 appropriate by the presiding workers' compensation commissioner.  
253 Any assistance available under this section shall be offset by any  
254 workers' compensation benefits already paid to the affected person for  
255 the uncompensated leave or out-of-pocket medical costs, including  
256 payments made without prejudice. It shall be the responsibility of the  
257 administrator of the fund to notify the Workers' Compensation  
258 Commission of an available offset.

259 (h) An affected person or affected employee may request that a  
260 determination made pursuant to subsection (f) of this section be  
261 reconsidered by the administrator's designee by filing a request with the  
262 administrator, on a form prescribed by the administrator, not later than  
263 twenty business days after the mailing of the notice of such  
264 determination. The administrator, not later than three business days  
265 after receipt of such request for reconsideration, shall designate an  
266 individual to conduct such reconsideration and shall submit to such  
267 designated individual all documents relating to such affected person's  
268 or affected employee's claim. The administrator's designee shall conduct  
269 any reconsideration requested by an affected person or affected  
270 employee, which shall consist of a de novo review of all relevant  
271 evidence, not later than twenty business days after such individual's  
272 designation. Such administrator's designee shall issue such designee's  
273 decision affirming, modifying or reversing the decision of the  
274 administrator not later than twenty business days after the designee's  
275 reconsideration of the determination and shall submit such decision in  
276 writing to the administrator and the affected person or affected  
277 employee. The decision shall include a short statement of findings that  
278 shall specify any assistance to be paid to the affected person or affected  
279 employee in accordance with subsection (f) of this section.

280 (i) Any statement, document, information or matter may be  
281 considered by the administrator or, on reconsideration, by the  
282 administrator's designee, if in the opinion of the administrator or  
283 designee, it contributes to a determination of the claim, whether or not  
284 the same would be admissible in a court of law.

285 (j) There shall be no right of appeal by any affected person or affected  
286 employee claiming assistance under this section following the final  
287 decision of the administrator's designee issued pursuant to subsection  
288 (h) of this section.

289 (k) Any assistance provided to an affected person or affected  
290 employee under this section shall not be considered income for the  
291 purpose of the state's personal income tax law, corporation tax or any  
292 other tax laws.

293 (l) If a claim is paid to an affected person or affected employee  
294 erroneously or as a result of wilful misrepresentation by such affected  
295 person or affected employee, the administrator may seek repayment of  
296 benefits from the affected person or affected employee having received  
297 such compensation and may also, in the case of wilful  
298 misrepresentation, seek payment of a penalty in the amount of fifty per  
299 cent of the benefits paid as a result of such misrepresentation.

300 (m) On or before January 1, 2022, and monthly thereafter, and any  
301 other time at the request of the administrator, the Comptroller shall  
302 submit a report to the administrator indicating the value of the  
303 Connecticut Essential Workers COVID-19 Assistance Fund at the time  
304 of the report.

305 (n) On or before January 1, 2022, and at least quarterly thereafter, the  
306 administrator shall submit to the joint standing committee of the  
307 General Assembly having cognizance of matters relating to labor, in  
308 accordance with section 11-4a, a report on the financial condition of the  
309 Connecticut Essential Workers COVID-19 Assistance Fund. Such report  
310 shall include (1) an estimate of the fund's value as of the date of the  
311 report; (2) the effect of scheduled payments on the fund's value; (3) an

312 estimate of the monthly administrative costs necessary to operate the  
 313 program and the fund; and (4) any recommendations for legislation to  
 314 improve the operation or administration of the program and the fund.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-900

**Statement of Legislative Commissioners:**

In Subsection (g), "or affected employee" was added for consistency.

**LAB**      *Joint Favorable Subst.*

*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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### **OFA Fiscal Note**

**State Impact:** See Below

**Municipal Impact:** None

### **Explanation**

The bill, which expands the Essential Workers' COVID-19 Assistance program to include essential employees in phase 1c of the vaccination program and provides leave benefits to those who missed work without pay, may result in increased payments from resources allocated to the program to the extent that additional applications are received. Increased administration costs may also be incurred should there be a rise in submitted applications. The bill does not make any changes to the original allocation of \$34 million to the program.

For reference, the program is administered by the Comptroller on a first-come first-serve basis through June 30, 2024. The fund balance at the end of the first quarter, ending March 31, 2022, was \$33,887,822.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Office of the State Comptroller CTEW Relief Fund Legislative Report*

**OLR Bill Analysis****sSB 422*****AN ACT CONCERNING THE ESSENTIAL WORKERS COVID-19 ASSISTANCE PROGRAM.*****SUMMARY**

This bill expands the Essential Workers COVID-19 Assistance Program to cover a broader range of essential employees. More specifically, these include people employed in a category that the Centers for Disease Control and Prevention (CDC) recommended for a vaccination in phase 1c of the COVID-19 vaccination program (e.g., employees in community housing services, transportation occupations, and restaurants, among many others). PA 21-2, June Special Session, § 289, established the program to provide benefits for lost wages, out-of-pocket medical expenses, and burial expenses to certain essential employees who could not work due to contracting COVID-19 or symptoms that were later diagnosed as COVID-19 between March 10, 2020, and July 20, 2021.

The bill also expands the program to provide COVID-19 leave benefits to those who missed work, without pay, for certain reasons related to COVID-19 since July 21, 2021. The eligible reasons for the leave include, among other things, the employee (1) having COVID-19 and needing to quarantine, (2) needing to quarantine because of COVID-19 symptoms or potential exposure to COVID-19, (3) being prohibited from working by his or her employer due to concerns over potential COVID-19 transmission, and (4) needing to care for a family member under quarantine or whose school has been closed due to COVID-19.

The expanded leave benefit is available to cover up to 80 hours of an employee's unpaid time lost from work between July 21, 2021, and the end of the emergency declared by the governor on March 10, 2022

(presumably, 2020), and extended by the legislature on February 14, 2022.

Lastly, the bill makes numerous technical and conforming changes.

EFFECTIVE DATE: Upon passage

### **ESSENTIAL EMPLOYEES**

Under current law, the “essential employees” covered by the program are those employed in a category that the CDC’s Advisory Committee on Immunization Practices, as of February 20, 2021, recommended to receive a COVID-19 vaccination in phase 1a or 1b of the COVID-19 vaccination program. These include health care personnel, firefighters, police officers, corrections officers, food and agricultural workers, manufacturing workers, grocery store workers, public transit workers, education sector workers, and child care workers.

The bill further expands the essential employees covered by the program to include those who the CDC recommended for a COVID-19 vaccination in phase 1c of the program. These include employees in the transportation and logistics, food service, energy, shelter and housing, and news media workforce categories, among several others.

### **COVID-19 LEAVE BENEFITS**

The bill also expands the program to provide up to 80 hours of COVID-19 leave benefits to “affected employees” who missed work, without pay, for an “eligible reason for leave” after July 20, 2021.

#### ***Affected Employees***

Under the bill, “affected employees” eligible for COVID-19 leave benefits are essential employees, as amended by the bill, who due to an “eligible reason for leave” could not perform the functions of their job at any time between July 21, 2021, and the end of the public health and civil preparedness emergencies declared by the governor on March 10, 2022 (presumably, 2020), and extended by the legislature on February 14, 2022.

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Affected employees do not include the following essential employees:

1. those employed in a capacity where they worked solely from home and did not have physical interaction with other employees during the 14 consecutive days immediately before the eligible reason for leave or
2. those who received a written offer or directive from their employer to work solely from home but otherwise chose to work at their employer's work site.

### ***Eligible Reasons for Leave***

Under the bill, the "eligible reasons for leave" for which affected employees may receive COVID-19 leave benefits are any of the following:

1. affected employees' need to (a) self-isolate and care for themselves due to a COVID-19 diagnosis, symptoms, or exposure; (b) seek COVID-19 preventive care; (c) seek or obtain a diagnosis, care, or treatment for COVID-19 symptoms; or (d) seek or obtain a COVID-19 vaccine or booster dose, or recover from an injury, disability, illness, or condition related to one;
2. affected employees' need to comply with an order or determination to quarantine because (a) they have COVID-19 symptoms or possible exposure to COVID-19, regardless of whether they were diagnosed with COVID-19, and (b) their physical presence on the job or in the community would jeopardize their health or that of other employees or someone in the employee's household;
3. affected employees' inability to work because they were (a) prohibited from working by their employer due to health concerns related to potential COVID-19 transmission; (b) subject to a general local, state, or federal quarantine order; or (c) seeking or waiting for a COVID-19 diagnosis or test result after an

exposure to COVID-19 or request by the employer;

4. affected employees' need to care for a family member who is (a) self-quarantining or subject to a general local, state, or federal quarantine order or (b) seeking preventive care, diagnosis, treatment, or a vaccine or booster, or recovering from them;
5. affected employees' need to care for a child or other family member whose (a) care provider is unavailable due to COVID-19 or (b) school or place of care has been closed due to COVID-19, including when it is physically closed but provides virtual learning, requires or has optional virtual learning, or requires or offers a hybrid of in-person and virtual learning; or
6. affected employees cannot work because they have a health condition that may increase susceptibility to or risk of COVID-19, including age, heart disease, asthma, lung disease, diabetes, kidney disease, or a weakened immune system.

Under the bill, a "family member" for whom an affected employee may use the leave includes a spouse, sibling, son or daughter, grandparent, grandchild, or parent, or an individual related to the employee by blood or affinity whose close association the employee is the equivalent of those family relationships.

### **Benefits**

The bill allows eligible affected employees to receive up to 80 hours of benefits for their "uncompensated leave," which is the wages or salary they lost due to an eligible reason for leave. An employee's uncompensated leave does not include any leave from work that was covered by a paid leave plan provided by their employer or under a state or federal law.

Under the bill, an affected employee's benefit level, subject to available funds, must be 100% of his or her hourly uncompensated leave. The benefit is available retroactively to July 21, 2021, for work lost due to an eligible reason for leave.



As with the benefits currently provided by the program, the bill's COVID-19 leave benefits are not considered income under the state's personal income tax law, corporation tax, or any other tax laws.

### ***Applications***

To apply for COVID-19 leave benefits, the bill requires an affected employee to submit a claim to the program administrator (i.e., the state comptroller) in a form the administrator requires. The claim must include (1) evidence of the employee's hourly earnings during the eight calendar weeks immediately preceding the date that the employee could not work due to an eligible reason for leave, (2) the amount of uncompensated leave the employee incurred due to the leave, and (3) any additional information the administrator requests or requires.

### ***Claim Determinations, Appeals, and Overpayments***

The bill extends the current program's provisions on claim determinations, appeals, and overpayments to COVID-19 leave benefits, which are briefly summarized below.

***Claim Determinations.*** The administrator must promptly review the claims based on the provided information and evaluate each one to determine whether it should be approved and, if so, the benefit amount. The administrator must provide a written determination within 60 business days after receiving the claim notice or, if the administrator requested additional information, within 10 business days after receiving that information. The administrator must direct the comptroller to pay the COVID-19 leave benefits in the amount and for the duration determined by the administrator, if applicable.

***Appeals.*** An affected employee may request that a claims determination be reconsidered by the administrator's designee. The request must be filed within 20 business days after the determination notice was mailed. The designee must conduct the requested reconsideration as a de novo review of all relevant evidence and issue a decision affirming, modifying, or reversing the administrator's decision. An affected employee cannot further appeal a case beyond the

administrator's designee.

*Overpayments.* If a claim is paid to an affected employee erroneously or due to the employee's willful misrepresentation, the administrator may seek repayment of benefits. For willful misrepresentation, the administrator may also seek payment of a penalty equal to 50% of the benefits paid because of the misrepresentation.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9      Nay 4      (03/24/2022)