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## **OLR Bill Analysis**

### **sHB 5005**

#### ***AN ACT EXPANDING PAID SICK DAYS IN THE STATE.***

#### **SUMMARY**

This bill expands the state's paid sick leave law in numerous ways. The current paid sick leave law generally requires certain employers with at least 50 employees to give up to 40 hours of paid sick leave annually to their "service workers" in certain specified occupations. The bill expands the law by, among other things:

1. covering nearly all private sector employees and employers with at least 25 employees in 2025, those with at least 11 employees in 2026, and then those with at least one employee in 2027 (the bill exempts certain union construction workers and their employers);
2. broadening the range of family members for whom an employee may use the leave;
3. requiring covered employers to annually give their employees 40 hours of the leave at one time, instead of having employees accrue the leave based on how many hours they worked;
4. allowing employers to meet the bill's requirements by giving employees a one-time payment that equals the greater of 40 hours of either their normal hourly wage or the minimum wage;
5. broadening the reasons employees may use the leave to include events like closures due to a public health emergency and quarantines; and
6. prohibiting employers from requiring their employees to provide any documentation to support their reasons for taking leave.

It expands current employer notice requirements by requiring employers to give written notice to each employee about the paid sick leave law. The bill also sets employer recordkeeping requirements that, among other things, require (1) employee “pay stubs” to include an employee’s accrued paid sick time and use for the calendar year and (2) employers to maintain their paid sick leave records for three years.

It also makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: January 1, 2025

### **§§ 1-3 — COVERED EMPLOYERS, EMPLOYEES, & FAMILY MEMBERS**

#### ***Employers and Employees***

The current paid sick leave law covers private sector employers with at least 50 employees, except manufacturers and certain non-profits. The bill gradually expands the law’s coverage to nearly all private sector employers regardless of their size, industry, or non-profit status by extending coverage to employers with at least 25 employees starting January 1, 2025; then to employers with at least 11 employees starting January 1, 2026; and to all employers starting January 1, 2027.

However, it exempts (1) employers that participate in a multi-employer health plan requiring contributions from multiple employers and maintained under a collective bargaining agreement between employers and a construction-related trade person employee organization (e.g., union) or organizations; (2) the employees who are members of an employee organization that is a party to one of these health plans; and (3) self-employed people (as the bill does not define “self-employed,” it is unclear if this exempts the self-employed from having to give paid sick leave to their employees, if they have any).

The bill also expands current law to cover all private sector employees (except for the union construction workers described above), rather than only the specified “service worker” occupations (e.g., home health aides, nurses, security guards, janitors, and cashiers) covered by current law. It also includes the day or temporary workers excluded from the current law.

**Family Members (§§ 1 & 3)**

Current law allows covered employees to use paid sick leave to care for their minor or disabled child (or child for whom they stand in place of a parent) or spouse. The bill broadens the range of “family members” for whom employees may use paid sick leave to include their adult children, siblings, parents, grandparents, and grandchildren, and anyone related to the employee by blood or affinity whose close association the employee shows to be equivalent to those family members.

Under the bill, siblings and grandchildren include those relations by blood, marriage, adoption, or foster care, as is the case for children under current law. Parents include a biological, foster, or adoptive parent, stepparent, parent-in-law, legal guardian, and someone who stands or stood in the place of a parent.

Under current law, a “spouse” is a husband or wife, as the case may be. Under the bill, a spouse is instead (1) someone who is legally married to an employee under the laws of any state, or (2) an employee’s domestic partner registered under the laws of any state or political subdivision.

**§ 2 — LEAVE PROVISION AND AVAILABILITY****Leave Provision**

Under current law employees accrue one hour of leave per every 40 hours worked. The bill instead requires covered employers to give their employees 40 hours of leave annually. When an employer must give an employee the leave depends on when the employee began working for the employer, as shown in the table below. (It is unclear how this schedule would apply to those employers whose coverage is phased in during 2026 and 2027.)

**Table: When to Provide 40 Hours of Leave Annually Under the Bill**

<i>When Employee Began Working for the Employer</i>	<i>When the Employer Must Give the Employee 40 Hours of Leave</i>
At least 180 days before January 1, 2025	January 1, 2025
Less than 180 days before January 1, 2025	On the employee's 180th day of employment with the employer

<b><i>When Employee Began Working for the Employer</i></b>	<b><i>When the Employer Must Give the Employee 40 Hours of Leave</i></b>
On or after January 1, 2025	On the employee's 180th day of employment with the employer

The bill requires that employees maintain their received paid sick leave when (1) they transfer to a separate division, entity, or location with the same employer or (2) a different employer succeeds or replaces an existing employer. Current law does not explicitly address either of these issues.

### ***Leave Availability***

Under current law, employees must work 680 hours for their employer before they can use their accrued leave. The bill instead allows employees to use their leave immediately. It also allows employees to use the leave regardless of how much they work by eliminating a provision in current law that allows employees to use leave only if they average at least 10 work hours per week in the most recent complete quarter.

### ***Replacements and Shift Swapping***

The bill prohibits employers from requiring employees taking paid sick leave to look for or find a replacement to cover the hours they were scheduled to work.

### ***Leave Carryover***

Current law entitles covered employees to carry over up to 40 unused accrued hours of paid sick leave from one year to the next, but prohibits them from using more than 40 hours of the leave per year. The bill removes these provisions and does not otherwise specify how unused leave time must be handled.

### ***Other Employer-Provided Leave & Alternative Compliance***

The current paid sick leave law deems an employer in compliance with its requirements if the employer offers other paid leave that the employee can use for the same reasons allowed under the paid sick leave law. The bill requires that employees also be able to use the other paid leave under the same conditions for the exception to apply.

It also deems an employer in compliance if the employer gives an employee a one-time payment equal to 40 hours of work at a pay rate that equals the greater of either the employee's normal hourly wage or the state minimum wage.

### **§ 3 — LEAVE USES & DOCUMENTATION**

The bill expands the reasons why an employee may use sick leave to include when the employer's place of business or a family member's school or place of care is closed by order of a public official due to a public health emergency.

It also allows for leave if the employee or a family member is under quarantine (i.e., when it has been determined that the employee or family member poses a risk to others' health due to their exposure to a communicable disease, regardless of whether they actually contracted it). The determination for a quarantine must be made by a health authority with jurisdiction, a health care provider, or the employee's or family member's employer.

Under current law, an employee may use paid sick leave for preventative medical care for themselves or a covered family member. The bill specifies that this includes preventative care for mental or physical health.

Current law also allows an employee to use paid sick leave if he or she was a victim of family violence or sexual assault and needs leave to do certain things (e.g., get counseling or participate in civil or criminal proceedings). The bill allows employees to use the leave if their family member is a victim of family violence or sexual assault and needs to do these same things.

#### ***Documentation***

Under certain circumstances, current law allows employers to require employees to provide documentation to support their reasons for taking leave. The bill instead prohibits employers from requiring any documentation showing that the employee took the leave for one of the reasons allowed.

**§ 6 — EMPLOYER NOTICE AND RECORDS**

Current law requires employers to notify employees about certain provisions of the paid sick leave law when they are hired (e.g., how leave accrues and how it may be used) and allows them to meet this requirement by displaying a poster in the workplace. The bill requires employers to display this poster and additionally requires them to give each employee written notice about these provisions by January 1, 2025, or when an employee is hired, whichever is later.

If the employer does not maintain a physical workplace, or an employee teleworks or works through a web- or app-based platform, the employer must meet the notice requirement by sending the information through electronic communication or conspicuously posting it on a web- or app-based platform. The bill eliminates a provision in current law that requires the commissioner to administer the current law's notice requirements within available appropriations.

The bill requires that employee "pay stubs" include how many (1) hours of paid sick leave the employee used during the calendar year and (2) employees to whom the employer gave the one-time payment instead of paid sick days during the calendar year. (It is unclear why an employee's pay stub would need to indicate how many employees the employer gave a one-time payment to). The bill also requires employers to maintain these paid sick leave records for three years and give the labor commissioner access to them, with appropriate notice and at a mutually agreeable time, to monitor compliance with the bill's recordkeeping requirements.

Lastly, the bill allows the labor commissioner to adopt regulations to implement the paid sick leave law. Current law only allows her to adopt regulations about the law's notice requirements.

**BACKGROUND*****Related Bills***

sSB 7 and sSB 12, reported favorably by the Labor and Public Employees Committee, similarly expand the paid sick leave law, although, among other things, they (1) do not phase in their expansion

to smaller employers; (2) continue to require that employees accrue their leave based on their hours worked, rather than annually providing a set amount all at once; and (3) do not allow employers to meet the sick leave requirement by giving employees a lump-sum payment.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 4 (03/21/2024)