

HB 3087 A STAFF MEASURE SUMMARY

House Committee On Early Childhood and Family Supports

Action Date: 04/18/17

Action: Without recommendation as to passage, with amendments, and be referred to Revenue by prior reference. (Printed A-Eng.)

Vote: 5-4-0-0

Yeas: 5 - Bynum, Keny-Guyer, Lively, Malstrom, Piluso

Nays: 4 - Hack, Hayden, Huffman, Smith DB

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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WHAT THE MEASURE DOES:

Creates family and medical leave insurance benefits program to provide portion of wages to employees. Establishes Family and Medical Leave Insurance Fund. Permits up to 12 weeks of benefits per benefit year and an additional six weeks for parental leave. Directs Department of Consumer and Business Services (DCBS) to determine weekly benefit amount based on wages earned during base year. Establishes maximum weekly benefit of 130 percent of average weekly wage. Authorizes benefits to self-employed individual. Requires payroll contributions up to .05 percent of employee wages to be paid by employers and employees. Requires DCBS director to determine annually the amount, timing and maximum employee contributions. Specifies actions for Oregon Department of Revenue to enforce collection by employer or temporary employment agency. Specifies confidentiality of records. Allows benefits for leave taken in increments of less than 40 hours in certain circumstances. Requires employee to provide employer with prior notice, to the extent practicable but no later than 45 days after first date of illness or injury. Specifies employee shall receive benefits for period that begins on first date of illness or injury. Permits employer to require written notice at least 30 days before commencing leave; creates exceptions. Entitles employee to be restored to position or equivalent position if position no longer exists and to maintain health care benefits. Prohibits retaliatory actions. Allows leave to run concurrently with Oregon Family Leave Act. Prohibits employer from requiring employee to use paid time off as condition of using leave benefits. Requires employer to display and provide written notice to employees. Requires DCBS to establish system for enforcement and appeal of contested cases involving benefit claims. Specifies financial penalties and disqualification from benefits for noncompliance and erroneous payments. Allows self-employed to elect coverage. Directs DCBS to adopt rules. Requires report from DCBS to legislature by January 1, 2020 and every even-numbered year. Directs DCBS to conduct study of amount of contributions self-employed individuals make and benefits received. Encourages sharing technology. Creates operative dates. Allows action before operative date to exercise duties. Creates effective date of 91 days after adjournment sine die.

ISSUES DISCUSSED:

- Length of paid and unpaid family and medical leave
- Employer and employee payroll tax contribution
- Proposed definition of "family"
- Impact to small business costs, competition, staffing, human resources and consideration of current employee regulations
- Caregiver expenses and lost wages
- Attending to family illnesses, caring for children and elders
- Access to paid family and medical leave for low-income workers, immigrants and people of color
- Maternal-child health benefits of increased family time
- Barriers to female participation in workforce
- Associated program costs

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EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

Certain employers in Oregon are required to provide *unpaid* family leave to their employees under the Oregon Family Leave Act (OFLA), Oregon Family and Military Family Leave Act, and the federal Family and Medical Leave Act (FMLA).

OFLA applies to employers with 25 or more employees in the current or prior year. Eligible employees may take OFLA leave for parental leave, a serious health condition, pregnancy disability leave, sick child leave or death of a family member. Under OFLA, employees may take up to 12 weeks of leave per year. There is additional leave time available for pregnancy disability leave, parental leave and sick child leave. An employee is eligible for benefits if they have worked at least 180 days with an average of 25 hours per week before leave commences. OFLA requires that employees provide 30 days' notice to employers in advance of taking leave, unless it is impractical. Employees are entitled to return to their former jobs or equivalent job if the position no longer exists. Employers can require that employees use accrued paid leave during OFLA leave and employees may opt to use accrued paid leave. Under the FMLA, a business with 50 or more employees is required to give an employee up to 12 weeks of unpaid leave for certain family and medical reasons. Any leave taken under FMLA counts as OFLA leave, provided the employee is eligible for OFLA.

The U.S. Department of Labor reports that paid maternity leave can increase workforce participation, increase retention and improve child health outcomes. In 2015, 12 percent of U.S. private sector workers had access to paid family leave through their employer. California, New Jersey and Rhode Island offer paid family leave. New York and Washington D.C. enacted paid family leave laws that are not yet effective. These systems require funds through employee payroll contributions (California and Rhode Island), employer payroll contributions (Washington D.C.) and combined employer and employee payroll contributions (New Jersey and New York).