

HOUSE BILL No. 2276

By Representative Swenson

2-11

AN ACT regarding family medical leave; concerning wage replacement; establishing the family leave wage replacement fund.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the family leave wage replacement act.

Sec. 2. (a) The family leave wage replacement act shall be: (1) A part of the state's employment security law; (2) funded through employer contributions; and (3) administered in accordance with the provisions of this act and the state employment security law.

(b) Up to six weeks of wage replacement benefits will be provided to eligible employees who take time off work under the federal family and medical leave act (FMLA): (1) To care for a seriously ill child, spouse or parent; (2) for the birth, adoption or foster placement of a new child; or, (3) for the employee's own serious health condition.

(c) No more than six weeks of family leave wage repayment shall be paid within any 12-month period.

(d) The secretary of human resources or the secretary's designee shall administer this act and compute an eligible employee's wage replacement benefit in the same manner as the weekly wage benefit formula of the employment security law.

(e) All payments provided shall be payable from the family leave wage replacement fund in accordance with rules and regulations adopted by the secretary to fulfill the intent of the provisions of this act.

Sec. 3. As used in this act, unless the context clearly required otherwise;

(a) "Child" means a biological, adopted or foster son or daughter, a stepson or stepdaughter, a legal ward or a son or daughter of an employee who stands in loco parentis to that child.

(b) "Family leave" means:

(1) Leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or the serious health condition of a child of the employee or spouse; or

(2) leave to care for a parent or spouse who has a serious health

1 condition.

2 (c) "Parent" means a biological, foster or adoptive parent, a steppar-
3 ent, a legal guardian or other person who stood in loco parentis to the
4 employee when the employee was a child.

5 (d) "Family member" means a child, parent or spouse.

6 (e) "Serious health condition" means an illness, injury, impairment
7 or physical or mental condition that involves inpatient care in a hospital,
8 hospice, residential health care facility or continuing treatment or super-
9 vision of a health care provider.

10 Sec. 4. An employee shall be deemed eligible for family leave wage
11 replacement benefits on any day in which the employee is unable to
12 perform the employee's regular or customary work because such em-
13 ployee is caring for a new child during the first year after the birth or
14 placement of the child or a seriously ill child, parent or spouse, subject
15 to a waiting period of seven consecutive days during each family leave
16 wage replacement where no benefits are payable within that period.

17 Sec. 5. An employee is not eligible to receive family leave wage re-
18 placement benefits:

19 (a) Any day the employee receives or is entitled to receive unem-
20 ployment compensation benefits;

21 (b) any day the employee receives or is entitled to receive "other"
22 benefits in the form of cash;

23 (c) any day the employee receives or is entitled to receive state dis-
24 ability payments; or

25 (d) any day that another family member is able and available for the
26 same period of time that the employee is providing the required care.

27 Sec. 6. If the secretary or the secretary's designee finds that any per-
28 son falsely certifies the medical condition of any person to obtain family
29 leave wage replacement benefits, the secretary or the secretary's designee
30 shall assess a penalty against the person in the amount of 25% of the
31 benefits paid as a result of the false certification. The penalty money
32 collected under this section shall be deposited in the family leave wage
33 replacement fund.

34 Sec. 7. The secretary of human resources shall adopt rules and reg-
35 ulations to administer the provisions of this act.

36 Sec. 8. There is hereby established in the state treasury the family
37 leave wage replacement fund. Such fund shall be funded by a fee assess-
38 ment against employers in the same manner and amount as that in the
39 employment security law act. All moneys payable to the fund, upon re-
40 ceipt by the secretary, shall be remitted to the state treasurer in accord-
41 ance with the provisions of K.S.A. 75-4215, and amendments thereto. All
42 interest derived from the deposit and investment of moneys in such fund
43 shall be credited to the fund. At the end of any fiscal year, all unexpended

1 money shall remain in the fund and not be transferred to the state general
2 fund. All expenditures from the family leave wage replacement fund shall
3 be made in accordance with appropriation acts upon warrants of the di-
4 rector of accounts and reports issued pursuant to vouchers approved by
5 the secretary of human resources or the secretary's designee.

6 Sec. 9. This act shall take effect and be in force from and after its
7 publication in the statute book.

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