

Date of Hearing: April 3, 2024

ASSEMBLY COMMITTEE ON INSURANCE  
Lisa Calderon, Chair  
AB 2123 (Papan) – As Introduced February 6, 2024

**SUBJECT:** Disability compensation: paid family leave

**SUMMARY:** Deletes the authorization for an employer to require an employee to take two weeks of vacation leave before accessing benefits under California's Paid Family Leave (PFL) program.

**EXISTING LAW:**

- 1) Establishes the Employment Development Department (EDD) to, among other duties, administer the Unemployment Insurance (UI) and State Disability Insurance (SDI) programs. (Unemployment Insurance Code Section (UIC) 301)
- 2) Establishes the SDI program as a partial wage-replacement plan funded through employee payroll deductions that is available (through the SDI and PFL programs) to eligible individuals who are unable to work due to sickness or injury of the employee (including pregnancy), the sickness or injury of a family member, or the birth, adoption, or foster care placement of a new child. (UIC 2601-3308)
- 3) Allows an employer to require an employee to take up to two weeks of earned but unused vacation leave prior to the employee accessing PFL benefits. (UIC 3303.1)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) *Purpose.* According to the author:

Over 20 years ago, California became the first state in the nation to enact a paid family leave program. California Paid Family Leave (PFL) provides workers with partial wage replacement when they take leave from work to provide care for a family member or bond with a new child. While California has led the nation in implementing PFL and has taken meaningful steps to make the program more equitable, workers still face barriers in accessing the PFL benefits that they contribute to. AB 2123 will remove unnecessary barriers for individuals seeking to access their PFL benefits and better enable them to be with children or family members in times of transition and hardship. These updates will allow workers to access the support they need without placing any additional requirements on California employers.

- 2) *Background.* PFL was enacted in 2002 as an expansion to the SDI program to extend disability compensation to individuals who take time off work to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new minor child. California was the first state in the nation to implement a PFL benefit, with benefit payments beginning on July 1, 2004. Effective January 1, 2021, the PFL scope was expanded to include employees taking

time off work to assist a military family member under covered active duty or call to covered active duty. PFL provides up to eight weeks of the 60-70% wage replacement. Starting January 1, 2025 workers will be eligible for 70-90% wage replacement.

- 3) *Discussion.* An employer is currently allowed to require an employee to use two weeks of accrued vacation time before they can access PFL benefits. This prevents employees from freely accessing benefits they pay for, because PFL benefits are entirely funded by employees through a payroll withholding. Additionally, in practice many employees would likely use available vacation time before accessing PFL benefits given that these benefits are full wage replacement and PFL benefits are only partial wage replacement. By deleting the provision allowing employers to require employees to use vacation leave before accessing PFL benefits, this bill leaves the decision of whether to use vacation benefits before accessing their PFL benefits entirely with the employee.

This bill is a reintroduction of one provision from AB 575 (Papan) of 2023, which was vetoed by the Governor. The Governor's veto message said that AB 575 "would create pressure on the DI Trust Fund's solvency and adequacy resulting in higher disability contributions paid by employees." The provision reintroduced in this bill only impacts when an individual can begin accessing PFL, not who can access PFL or for how long.

4) *Related legislation.*

- a) AB 2167 (Cervantes), pending before the Assembly Insurance Committee, makes several changes to deadlines and the application process for the state PFL program including extending the deadline to apply to both 60 days prior and 60 days after the first compensable day, requiring fillable PDF forms for PFL benefits on the EDD website, allowing individuals to use a social security number or individual taxpayer identification number to apply for PFL benefits online, and extending the appeal timeline.
- b) AB 518 (Wicks), held on the Senate Inactive File, expands the definition of "family member" for purposes of the PFL program to allow workers to take time off to care for a seriously ill individual related by blood or whose close association with the employee is the equivalent of a family relationship.

5) *Prior legislation.*

- a) AB 575 (Papan) of 2023, would have made several changes to how individuals can access PFL benefits including expanding the program to allow for bonding with a child for whom they are acting in loco parentis, removing the restriction that only one family member at a time is allowed to access PFL, and deleting the provision allowing an employer to allow an employee to access vacation time prior to using PFL. This bill was vetoed by the Governor.
- b) AB 1041 (Wicks), Chapter 748, Statutes of 2022, expanded the list of individuals for which an employee can take leave under the California Family Rights Act (CFRA) and the Healthy Workplaces, Healthy Families Act of 2014.
- c) SB 951 (Durazo), Chapter 878, Statutes of 2022, revised the formula for the computation of SDI and PFL benefits.

- d) SB 1058 (Durazo), Chapter 317, Statutes of 2022, required EDD to collect demographic data, including race and ethnicity data and sexual orientation and gender identity data, for individuals who claim disability benefits under the SDI and PFL programs.
- e) SB 83 (Committee on Budget and Fiscal Review), Chapter 24, Statutes of 2019, beginning July 1, 2020, extended from six to eight weeks the maximum duration of PFL benefits individuals may receive.
- f) SB 1123 (Jackson), Chapter 849, Statutes of 2018 expanded the PFL program to include time off to participate in a qualifying exigency related to covered active duty, as defined, or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the armed forces.
- g) SB 63 (Jackson) Chapter 686, Statutes of 2017 prohibits an employer from refusing to allow an employee with more than 12 months of service with the employer, who has at least 1,250 hours of service with the employer, and who works at a worksite in which the employer employs at least 20 employees within 75 miles, to take up to 12 weeks of parental leave to bond with a new child.
- h) SB 770 (Jackson), Chapter 350, Statutes of 2013 expanded the definition of family to include in-laws, siblings and grandparents.

## REGISTERED SUPPORT / OPPOSITION:

### Support

#### AARP

Alzheimer's Greater Los Angeles

Alzheimer's Orange County

Alzheimer's San Diego

American College of Obstetricians and Gynecologists District IX

Breastfeedla

California Breastfeeding Coalition

California Child Care Resource and Referral Network

California Coalition on Family Caregiving

California Employment Lawyers Association

California Federation Business and Professional Women

California Federation of Teachers Afl-cio

California Partnership to End Domestic Violence

California Wic Association

California Women's Law Center

California Work & Family Coalition

Californians for Safety and Justice

Caring Across Generations

Center for Workers' Rights

Child Care Law Center

Citizens for Choice

Electric Universe

Evolve California  
Family Caregiver Alliance (FCA)  
Friends Committee on Legislation of California  
Human Impact Partners  
Jewish Center for Justice  
LA Alliance for A New Economy  
LA Best Babies Network  
Legal Aid At Work  
National Partnership for Women & Families  
Orange County Equality Coalition  
Our Family Coalition  
Parent Voices California  
Public Counsel  
Reproductive Freedom for All  
Small Business Majority  
Worksafe

**Opposition**

None on file

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