

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
SB 1090 (Durazo) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: Unemployment insurance: disability and paid family leave: claim administration

SUMMARY: Makes changes to the timeframes for the filing of a claim for and the payment of State Disability Insurance (SDI) and Paid Family Leave (PFL) benefits. Specifically, **this bill:**

- 1) Authorizes workers to file a claim for SDI or PFL benefits up to 30 days in advance of the first compensable day of disability with respect to that claim.
- 2) Requires the Employment Development Department (EDD) to issue payments for SDI or PFL benefits to eligible claimants within 14 days of receipt of the properly completed claim or as soon as eligibility begins for the claimant, whichever is later.
- 3) Makes these changes operative when the next scheduled improvement of EDD's integrated claims management system is implemented.

EXISTING LAW:

- 1) Establishes EDD to, among other duties, administer the Unemployment Insurance (UI) and 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. (UIC 2601-3308)
- 3) Provides, through the SDI program, short-term wage replacement benefits to eligible workers who are unable to work due to a non-work-related illness or injury. SDI benefits can be used for an illness or injury, either physical or mental, which prevents an employee from performing their regular and customary work and includes elective surgery, pregnancy, childbirth, or other medical conditions. (UIC 2601-3308)
- 4) Establishes the PFL program within the SDI program for the provision of wage replacement benefits for up to eight weeks within a 12-month period to workers for the following reasons:
 - a) To care for a seriously ill family member;
 - b) To bond with a new child entering the family by birth, adoption, or foster care placement; or,
 - c) To participate in a qualifying event because of a spouse, registered domestic partner, parent, or child's military deployment to a foreign country. (UIC 3301-3303)

- 5) Requires SDI and PFL claims, accompanied by a certificate on a form furnished by EDD, to be filed no later than the 41st consecutive day following the first compensable day, with the possibility for extensions upon a showing of good cause, as specified. (UIC 2706.1 and 3301)
- 6) Requires EDD to issue the initial payment for both SDI and PFL benefits to a monetarily eligible claimant who is otherwise determined eligible by EDD under applicable law and regulation within 14 days of receipt of their properly completed claim. (UIC 2701.5 and 3304)

FISCAL EFFECT: Unknown.

COMMENTS:

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

SB 1090 provides working families with more timely access to Paid Family Leave and State Disability Insurance benefits by allowing workers to pre-apply for these benefits up to 30 days before the start of their leave.

This small change will enable workers to apply before their hands are full with a new baby or they are recovering from major surgery.

It would also provide workers with more economic certainty by allowing them to know whether they qualify for benefits and how much money they will receive before beginning an unpaid leave from work.

- 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. According to EDD's SDI Statistical Information, for the first six months of 2022 the average weekly benefit amount was \$821.

Many confuse the PFL program (which provides only wage replacement during leave) with the job protection guarantees in the federal Family & Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). However, the changes to PFL benefits in this bill do not affect these job protection laws.

- 3) *Discussion.* For both SDI and PFL programs, existing law requires that a claimant wait to apply for benefits until the first day they suffer a wage loss. EDD will then process the application and, barring any issues, is required to issue initial payment of benefits within 14 days of receipt of the properly completed claim. Delays in receipt of benefits can occur if an application contains errors or there is an issue with receipt of the doctor's certification. This bill will allow claimants, when the use of SDI and PFL is foreseeable, to apply up to 30 days

prior to the first compensable day of disability and clarifies that benefits must be provided within 14 days or as soon as eligibility begins, whichever is later.

EDD is currently in the middle of an ongoing system modernization effort, EDD Next. In light of this, the provisions of this bill would not become operative until the next scheduled improvement of EDD's integrated claims management system is implemented.

4) *Related legislation.*

- a) AB 2167 (Cervantes) of 2024, extends the timeline for an individual to file a claim for PFL benefits to no later than the 60th consecutive day following the first compensable day as well as authorizing the individual to file that claim up to 60 days before the first compensable day. Pending before the Senate Appropriations Committee.
- b) AB 2123 (Papan) of 2024, deletes the authorization for an employer to require an employee to take two weeks of vacation leave before accessing benefits under the state PFL program. Pending before the Senate Floor.
- c) AB 518 (Wicks) of 2023, 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. On the Senate Inactive File.

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, Statues 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

Aaaj- Asian Law Caucus
 AARP
 Asian Law Alliance
 Association of California Caregiver Resource Centers
 California Breastfeeding Coalition
 California Catholic Conference
 California Child Care Resource and Referral Network
 California Coalition on Family Caregiving
 California Domestic Workers Coalition
 California Employment Lawyers Association
 California Federation Business and Professional Women
 California Partnership to End Domestic Violence
 California Wic Association
 California Work & Family Coalition
 Californians for Safety and Justice
 Caring Across Generations
 Center for Workers' Rights
 Child Care Law Center
 Citizens for Choice
 Courage California
 Electric Universe
 Equal Rights Advocates
 Equality California
 Evolve California
 Family Caregiver Alliance (FCA)
 First 5 Association of California
 First 5 California
 Food Empowerment Project
 Friends Committee on Legislation of California
 Grace - End Child Poverty in California

Human Impact Partners
Jewish Center for Justice
LA Alliance for A New Economy
LA Best Babies Network
Legal Aid At Work
Lutheran Office of Public Policy - California
Mujeres Unidas Y Activas
National Council of Jewish Women CA
National Council of Jewish Women Los Angeles
National Health Law Program
National Partnership for Women & Families
Nursing Mothers Counsel
Orange County Equality Coalition
Our Family Coalition
Parent Voices California
Poder Latinx
Public Counsel
Reproductive Freedom for All CA
Rising Communities
San Diego County Breastfeeding Coalition
Small Business Majority
Techequity Collaborative
The Women's Employment Rights Clinic (WERC) At Ggu
UAW Local 230
UAW Region 6
Ufcw - Western States Council
Unite-la
United Steelworkers District 12
Working Partnerships USA
Worksafe

Opposition

None on file.

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