

## Overview of SSB 5975 – Paid Family and Medical Leave

**Background:** Following prolonged discussions between the business community and worker advocates, the Legislature in 2017 amended the state’s family and medical leave insurance program. That program was first passed in 2007 but never funded. The issue of paid family leave continued to poll extremely well across all demographics statewide. Legislators believed failure to find a legislative solution in 2017 would likely result in a statewide initiative backed by organized labor and likeminded social groups.

**Bill Summary:** SSB 5975 made substantial policy changes to the state family and medical leave insurance program and provided a funding mechanism. The chart below summarizes many of the provisions of SSB 5975.

Issue	Negotiated Bill Language of SSB 5975 (2017)
<b>Who is in the program?</b>	<ul style="list-style-type: none"> <li>• All employees.</li> <li>• Employees at employers with 50 or fewer employees will pay premiums, in the same amount they would if at large employers, but these employers will not be required to pay premiums. If these employers choose to pay the employer share of premiums, they will be eligible for business assistance and must stay in the program for a minimum of 3 years.</li> <li>• To qualify, an individual must work for 820 hours in 4 of the last 5 quarters.</li> <li>• Independent contractors and self-employed may opt-in. They would be required to pay 100% of the premiums and must opt-in for at least 3 years (consistent with voluntary opt-ins for the UI system).</li> <li>• Employers may waive out of the disability leave bucket, paid family leave bucket, or both, if they have an approved plan that is equal or better than the state plan.</li> </ul>
<b>Who pays and how much</b>	<ul style="list-style-type: none"> <li>• For disability leave, premiums will be split 55% employer/45% employee.</li> <li>• For family leave, premiums will be paid 100% by employee.</li> <li>• This results in a total premium share of 37% by the employer and 63% by the employee.</li> <li>• ESD would begin to collect premiums January 1, 2019, and begin paying benefits January 1, 2020.</li> <li>• Premiums are calculated at the Social Security wage base.</li> </ul>
<b>Job retention</b>	<ul style="list-style-type: none"> <li>• There is no additional requirement beyond the federal FMLA – namely, the job is protected if the employee works for an employer with 50+ employees and has worked with that employer for 12 months and 1,250 hours prior to the qualifying event.</li> <li>• Key employees are exempted from the job protection requirement.</li> </ul>

Issue	Negotiated Bill Language of SSB 5975 (2017)
<b>Number of weeks of benefits per year</b>	<ul style="list-style-type: none"> <li>Disability: Up to 12 weeks, or up to 14 weeks for a pregnant individual with pregnancy complications.</li> <li>Family: Up to 12 weeks.</li> <li>Annual cap: Up to 16 weeks, or up to 18 weeks for a pregnant individual with pregnancy complications.</li> </ul>
<b>Amount of wage replacement</b>	<ul style="list-style-type: none"> <li>90% of up to half state Average Weekly Wage and 50% of earnings above.</li> <li>Cap of \$1,000 per week, adjusted annually for inflation.</li> <li>Benefit calculated on the 2 highest earning quarters in the last 4 completed quarters.</li> </ul>
<b>Types of leave &amp; eligible family members</b>	<ul style="list-style-type: none"> <li>Same medical conditions and military exigency needs as currently allowed under FMLA.</li> <li>For family leave, the eligible family members are the same as those allowed for sick leave under I-1433.</li> </ul>
<b>Business items</b>	<ul style="list-style-type: none"> <li>No UI charge for employer that hires a temporary worker to cover a worker on leave, and then lays off the temp worker.</li> <li>For businesses with 150 or fewer employees, they can receive a \$3,000 training grant for hiring a temporary worker when a regular employee is on leave or additional wage costs for remaining workers. This is capped at \$30,000 per year.</li> </ul>
<b>Notice to the employer</b>	<ul style="list-style-type: none"> <li>Workers required to provide 30 days notice or as soon as practicable.</li> </ul>
<b>Local ordinances</b>	<ul style="list-style-type: none"> <li>No local government program.</li> <li>No employer top-up.</li> <li>No local government enforcement of state program.</li> </ul>
<b>Other</b>	<ul style="list-style-type: none"> <li>ESD will administer the program.</li> <li>Entities subject to a collective bargaining agreement would not need to comply until the CBA is reopened, renegotiated, or expires.</li> <li>Workers must take leave in at least 8-hour increments. They cannot take a couple of hours of paid family or disability leave.</li> <li>There is no eligibility for workers' compensation or UI while on paid family or disability leave. FMLA leave under federal law must be taken concurrently with paid family or disability leave.</li> <li>Employers may seek a waiver to offer their own paid family or disability programs that meet specific conditions.</li> </ul>
<b>Appeals/ Enforcement</b>	<ul style="list-style-type: none"> <li>The appeal process for employees and employers is modeled on ESD's current appeal process for UI – namely, an initial claim at ESD, appeal to OAH, and appeal to trial courts.</li> <li>Employers have the right to cure.</li> </ul>

Issue	Negotiated Bill Language of SSB 5975 (2017)
	<ul style="list-style-type: none"> <li>• The bill creates a PFMLI Ombuds in ESD available to all employers and employees in the state.</li> <li>• The bill requires employers to provide employees with information on their rights under the program and ESD appeals. The information will be provided at the time of hire and be available to employees in handbook or on employment posters thereafter.</li> </ul>
<b>Premiums</b>	<ul style="list-style-type: none"> <li>• The premium rate will likely be 0.4% for the first two years, to be adjusted thereafter based on the size of the trust fund.</li> <li>• Formula: Annual payroll x 0.004 x 0.37 = Annual employer premium</li> </ul>

**Additional Details:** To find out more details about SSB 5975, consult the final bill report here: <http://lawfilesexternal.wa.gov/biennium/2017-18/Pdf/Bill%20Reports/Senate/5975-S%20SBR%20FBR%2017%20E3.pdf>.

**Full Text:** The text of SSB 5975 can be found here: <http://lawfilesexternal.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/Senate/5975-S.SL.pdf>.

**Additional Information or Questions:** Contact Scott Dilley at [scott@wastatedairy.com](mailto:scott@wastatedairy.com) or 360.581.8153 for more information.