Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 951
Author: Durazo (D), et al.
Amended: 5/19/22
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 3/21/22
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SUBJECT: Unemployment insurance: contribution rates: disability insurance: paid family leave: weekly benefit amount

SOURCE: California Work & Family Coalition
Legal Aid at Work
UNITE-LA

DIGEST: This bill 1) extends the existing wage replacement rates for the State Disability (SDI) and Paid Family Leave (PFL) programs, which provide a 60-70% wage replacement and is set to sunset January 1, 2023, to January 1, 2025; 2) revises for claims commencing on or after January 1, 2025, the formulas for determining benefits for SDI and PFL claims; 3) provides, beginning January 1, 2025, an increased wage replacement rate for SDI ranging from 70-90% based on the individual's wages earned, as specified, for the first 16 weeks, and 60-70% after the 16 weeks for the remainder of the claim; 4) provides, beginning January 1, 2025, an increased wage replacement rate for PFL that ranges from 70-90%, depending on income, as specified, for the full eight weeks provided under PFL; and 5) strikes the SDI wage ceiling for taxable contributions, thereby making all wages taxable for purposes of computing SDI taxes.

ANALYSIS:

Existing law:

1) Establishes the Employment Development Department (EDD) to, among other duties, administer the Unemployment Insurance and Disability Insurance programs. (Unemployment Insurance Code §301)

2) Establishes the State Disability Insurance (SDI) program as a partial wage-replacement plan funded through employee payroll deductions that is available (through the Disability Insurance and Paid Family Leave 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. (Unemployment Insurance Code §2601-3308)

3) Paid Family Leave (PFL) provides eligible employees up to eight weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner, to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption, or to participate in a qualifying event because of a family member's military deployment. (Unemployment Insurance Code §3301)

4) Specifies that an individual's SDI or PFL "weekly benefit amount" shall be as follows:

    a) Provides a 70% wage replacement for a claimant with income below 33% of the statewide average quarterly wage level until January 1, 2023.

    b) Provides 60% wage replacement for a claimant with income at or above 33% of the statewide average wage level until January 1, 2023.

    c) Provides that the wage replacement rate for benefits will revert to 55% for all employees, regardless of income, starting on January 1, 2023.

    d) Limits the amount of benefit payments to the maximum payment for workers compensation temporary disability as established by the Department of Industrial Relations (currently $1,540 per week).
    (Unemployment Insurance Code §2655)

5) Requires each worker to pay worker contributions at a rate determined by the director of the EDD. The rate of worker contributions shall not exceed 1.5 percent or be less than 0.1 percent. However, these provisions do not apply to that part of the remuneration which, with respect to employment equal to four times the maximum weekly benefit for each calendar year, as specified, is paid to the individual by the employer – creating a wage ceiling subject to the tax. (Unemployment Insurance Code §984 & §985)

This bill:

1) Extends the existing wage replacement rates for State Disability Insurance and Paid Family Leave (set to sunset on January 1, 2023) to January 1, 2025.

2) Revises the formula for computing State Disability Insurance benefits for periods of disability commencing on or after January 1, 2025, to specify that an individual shall receive a "weekly benefit amount" that:

   a) When the amount of wages paid to the individual is less than $929, as specified, provides $50.

   b) When the amount of wages paid to the individual is at or above $929 but below 70% of the state average quarterly wage, as specified, provides a 70% wage replacement.

   c) When the amount of wages paid to the individual is above 70% of the state average quarterly wage, as specified, provides a 60% wage replacement.

3) Specifies that for periods of disability commencing on or after January 1, 2025, the weekly SDI benefit amount for the first 16 weeks shall be as follows:

   a) When the amount of wages paid to the individual is less than $722.50, as specified, then $50 dollars.

   b) When the amount of wages paid to the individual is $722.50 or more, but 70 percent or less than the state average quarterly wage, then the weekly benefit amount shall be equal to 90 percent of the wages paid.

   c) When the amount of wages paid to the individual is more than 70 percent of the state average quarterly wage, the weekly benefit amount shall be equal to the greater of 70 percent of wages paid.

4) Specifies that the weekly benefit amount following the 16-week period described above shall revert to the weekly benefit amount formula described in bullet (2) above for all remaining weeks (up to the maximum of 52 weeks).

5) Revises the formula for the computation of Paid Family Leave benefits (available for eight weeks) for periods of disability commencing on or after January 1, 2025, to specify that an individual shall receive a "weekly benefit amount" that provides:

    a) When the amount of wages paid to the individual is less than $722.50, as specified, then $50 dollars.

    b) When the amount of wages paid is $722.50 or more, but 70 percent or less than the state average quarterly wage, provides a 90 percent wage replacement.

    c) When the amount of wages paid is more than 70 percent of the state average quarterly wage, provides a 70 percent wage replacement.

6) Specifies that the wage replacement shall not exceed the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations, per existing law, or 63 percent of the state average weekly wage.

7) Strikes Unemployment Insurance Code Section 985 which sets the taxable wage ceiling, thereby making all wages taxable for purposes of computing SDI worker contributions.

8) Strikes an obsolete operative date on the PFL provisions.

Background

Disability Insurance. SDI benefits are payable for a maximum of 52 weeks and provide a wage replacement of about 60-70 percent, depending on income. SDI covers approximately 18 million individuals. According to EDD's SDI Statistical Information, for fiscal year 2020-21, there were a total of 639,744 claims paid with a total of $7,146,258,131 in benefits paid. The average weekly benefit amount was $697 for approximately 16.50 average weeks.

Paid Family Leave. PFL provides up to eight weeks of the 60-70 percent wage replacement. According to EDD's SDI Statistical Information, for fiscal year 2020-

21, there were a total of 266,607 claims paid with a total of $1,354,822,581 in benefits paid. The average weekly benefit amount was $774 for approximately 6.67 weeks.

The last major changes to the SDI and PFL programs were made by AB 908 (Gomez) in 2016. That bill increased the 55% wage replacement rate across the board to what is currently available, 60-70% as discussed above. These changes first took effect in 2018 and were due to sunset on January 1, 2022 but were extended to January 1, 2023 as part of last year's budget under AB 138 (Committee on Budget, 2021).

[NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on the funding structure, contribution rate and benefit calculations for the SDI and PFL programs.]

Comments

Need for this bill? According to the author, "State Disability Insurance and Paid Family Leave wage replacement rates both provide too low of a reimbursement rate and too strictly limit who can receive the relative higher rate. Currently, only workers earning less than about $27,000 annually receive the higher wage replacement rate of 70%; all other workers receive 60% of their income up to a cap. This means that a worker who normally earns $27,000 annually will only receive about $365 per week from PFL or SDI, not nearly enough for a family to live on. Those who cannot afford to live on so little income are forced to either sink further into debt or to not be there for critical moments – bonding with a new baby or caring for a seriously ill loved one. Others choose to go back to work while they themselves are still seriously ill or injured, further endangering their health. Additionally, because workers with low incomes pay for these programs out of their own paychecks, but cannot afford to use them, they end up subsidizing higher-wage workers' leaves."

Related/Prior Legislation

SB 1058 (Durazo, 2022) requires the EDD to collect data regarding the race and ethnicity of individuals who claim SDI and PFL benefits. Pending on Senate Floor.

AB 123 (Gonzalez, 2021) would have revised the formulas for determining benefits available through SDI and PFL for a phased-in approach beginning with a 65-75% wage replacement for claims after January 1, 2023; after January 1, 2025, a wage replacement of either 70% or 90% depending on wages. The bill was vetoed.

AB 138 (Committee on the Budget, Chapter 78, Statutes of 2021), among other things, extended the sunset date on the SDI and PFL wage replacement rate of 60-70%, depending on income, from January 1, 2022 to January 1, 2023.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, the Employment Development Department's fiscal estimate of (1) costs to implement this bill, and (2) the bill's impacts to the SDI and PFL programs have yet to be determined. Relative to current law (such that the benefit levels return to 55 percent in 2023), EDD estimates of similar, previous bills suggest that this bill would result in additional benefits paid in the hundreds of millions of dollars annually (Unemployment Compensation Disability Fund). To the extent that the bill's higher benefit levels result in increased PFL utilization, these increases would be higher.

SUPPORT: (Verified 5/19/22)

California Work & Family Coalition (co-source)
Legal Aid at Work (co-source)
UNITE-LA (co-source)
A Better Balance
ACCESS Reproductive Justice
ACLU California Action
Alliance for a Better Community
American Association of University Women California
American Medical Women's Association
Association of California Caregiver Resource Centers
Bet Tzedek Legal Services
Breastfeed LA
Buen Vecino
California Breastfeeding Coalition
California Catholic Conference
California Child Care Resource & Referral Network
California Employment Lawyers Association
California Employment Lawyers Association
California Health Professional Student Alliance
California Immigrant Policy Center
California Latinas for Reproductive Justice

California Nurse-Midwives Association
California Pan-Ethnic Health Network
California Partnership to End Domestic Violence
California Physicians Alliance
California WIC Association
California Women's Law Center
Campbell High School Teachers Association
Caring Across Generations
Center for Community Action & Environmental Justice
Center for Workers' Rights
Central Coast Early Childhood Advocacy Network
Centro Legal de la Raza
Children Now
Citizens for Choice
Clergy and Laity United for Economic Justice
Electric Universe
Equal Rights Advocates
Families in Transition of Santa Cruz County, Inc.
Family Values @ Work
First 5 Alameda County
First 5 Association of CA
First 5 California
First 5 Humboldt
First 5 LA
First 5 Sonoma County
First 5 Ventura County
Food Empowerment Project
Friends Committee on Legislation of California
Healthy Kids Happy Faces
Human Impact Partners
Inland Empire Breastfeeding Coalition
Inland Equity Partnership
Jewish Center for Justice
Justice at Last
LA Best Babies Network
Maternal and Child Health Access
Mixteco Indigena Community Organizing Project
Mother's Own Milk Matters
NARAL Pro-Choice California
National Association of Social Workers – CA Chapter

National Council of Jewish Women California
National Council of Jewish Women Los Angeles
National Partnership for Women & Families
National Women's Political Caucus of California
Nevada County Citizens for Choice
Nursing Mothers Council
Orange County Equality Coalition
Our Family Coalition
Parent Voices CA
Pilipino Workers Center
Positive Discipline Community Resources
Prevention Institute
Public Counsel
Public Health Alliance of Southern California
Restaurant Opportunities Centers of California
ROC California
San Diego County Breastfeeding Coalition
San Francisco Senior and Disability Action
Santa Clara County Wage Theft Coalition
SEIU California
Small Business Majority
Street Level Health Project
Thai Community Development Center
United Food and Commercial Workers, Western States Council
United Ways of California
UNITE-LA
Walnut Avenue Family & Women's Center
Warehouse Worker Resource Center
Watsonville Law Center
Women For: Orange County
Working Partnerships USA
Worksafe

OPPOSITION: (Verified 5/19/22)

California Alliance for Retired Americans

ARGUMENTS IN SUPPORT: According to proponents and the sponsors of this bill, "Without an adequate wage replacement rate, workers with low incomes, who already face health disparities due to systemic racism, sexism, and xenophobia, cannot access the benefits that they pay for. While California is the fifth-largest economy in the world, it also has the highest rate of childhood poverty. California's PFL offers workers earning $14 per hour the lowest wage replacement rate of any paid family leave program in the United States. As Governor Newsom's Taskforce on Paid Family Leave concluded, one of the leading reasons Californians forego taking PFL is that current benefit levels replace too little of a worker's wages. California led the way in instituting Paid Family Leave. Now it is time for us to catch up by making our SDI and PFL programs accessible to California's most marginalized families."

ARGUMENTS IN OPPOSITION: The California Alliance for Retired Americans is opposed to the measure and writes, "SB 951 when it is finally implemented would give higher wage replacement rates to both the SDI and PFL beneficiaries: 90%for low wage workers and 70% for higher paid workers, but would limit the higher replacement rates for all SDI beneficiaries to 16 weeks after which they would drop to 60% for both low and high wage beneficiaries. This benefit reduction would be extremely harmful to the thousands upon thousands of SDI beneficiaries who because of their injuries or illnesses are unable to return to work within 16 weeks, (the maximum duration for SDI claims is 52 weeks). The reduction would come at a time when any beneficiary who did not have savings would need the higher benefit amount more than ever."

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5/23/22 16:24:17

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