87R10496 JSC-D

By:  Talarico H.B. No. 4100

A BILL TO BE ENTITLED

AN ACT

relating to family and medical leave.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle D, Title 2, Labor Code, is amended by adding Chapter 85 to read as follows:

CHAPTER 85. TEXAS FAMILY AND MEDICAL LEAVE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 85.001.  DEFINITIONS. In this chapter:

(1)  "Benefit" means the money paid under this chapter to an individual for family or medical leave.

(2)  "Commission" means the Texas Workforce Commission.

(3)  "Contribution" means a payment by an employer under this chapter to the fund.

(4)  "Employer" means a person who employs one or more employees.

(5)  "Fund" means the family and medical leave fund created under this chapter.

SUBCHAPTER B. FINANCING AND FUNDS

Sec. 85.051.  DUTIES OF COMPTROLLER. The comptroller is treasurer and custodian of the fund and shall administer the fund in accordance with the directions of the commission.

Sec. 85.052.  DEPOSIT AND USE OF MONEY. All money paid to the commission under this chapter:

(1)  shall be deposited in the fund; and

(2)  may be used only for the administration of this chapter.

Sec. 85.053.  FAMILY AND MEDICAL LEAVE FUND. (a) The family and medical leave fund is a special fund.

(b)  The fund consists of:

(1)  contributions collected under this chapter;

(2)  interest earned on money in the fund;

(3)  property or securities acquired through the use of money in the fund;

(4)  earnings of property or securities described by Subdivision (3);

(5)  amounts recovered for losses sustained by the fund; and

(6)  other money received for the fund from any other source.

Sec. 85.054.  USE OF FUND. The commission shall direct the administration of the fund exclusively for the purposes of this chapter.

SUBCHAPTER C. EMPLOYER CONTRIBUTIONS

Sec. 85.101.  CONTRIBUTION REQUIRED. (a) An employer shall pay a contribution on wages paid by that employer.

(b)  The contribution shall be paid to the commission in accordance with rules adopted by the commission.

Sec. 85.102.  CONTRIBUTION DEDUCTED FROM WAGES. An employer may deduct all or a portion of the cost of contributions from employee wages.

Sec. 85.103.  ESTABLISHMENT OF CONTRIBUTION RATE. For each calendar year, the commission shall establish a contribution rate for all employers in this state.

SUBCHAPTER D. BENEFITS; CLAIMS

Sec. 85.151.  FAMILY AND MEDICAL LEAVE. (a) An employee is entitled to not less than 12 weeks of leave:

(1)  to attend to the employee's own serious health condition;

(2)  to care for a family member with a serious health condition; or

(3)  to spend time with a child due to:

(A)  the birth of the employee's child; or

(B)  the placement of a child with the employee in connection with the adoption or foster care of the child by the employee.

(b)  Eligibility for leave under Subsection (a)(3) expires on the first anniversary of the date of the child's birth or placement with the employee, as applicable.

(c)  Leave may be taken intermittently. The minimum claim duration payment is for eight consecutive hours of leave.

Sec. 85.152.  FORESEEABILITY OF LEAVE; NOTICE TO EMPLOYER. If the necessity for leave under Section 85.151(a) is reasonably foreseeable, the affected employee shall provide notice to the employer.

Sec. 85.153.  AMOUNT OF BENEFITS. (a) Except as otherwise provided by this section, an employee who is eligible for benefits under this subchapter shall be paid from the fund an amount equal to 67 percent of the average amount the employee would have been paid if the employee had worked during that pay period.

(b)  The minimum weekly benefit may not be less than $100 a week, except that if the employee's average weekly wage is less than $100 a week, the weekly benefit for that employee is the employee's full wage.

(c)  The maximum weekly benefit may not exceed 90 percent of the average weekly benefit for the state, as annually calculated by the commission.

(d)  An employee who takes less than a full pay period of leave under this chapter is entitled to a prorated amount of the benefit under Subsection (a).

Sec. 85.154.  LEAVE CONCURRENT WITH FEDERAL FAMILY LEAVE ACT. An employee who is entitled to leave under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.) must take leave under that law concurrent with any leave taken under this chapter.

SUBCHAPTER E. EMPLOYER VIOLATIONS

Sec. 85.201.  RETALIATION PROHIBITED. An employer commits an unlawful employment practice if the employer makes an adverse employment decision as a result of the employee requesting or using leave under this chapter.

SUBCHAPTER F. COMMISSION DUTIES

Sec. 85.251.  RULES. The commission shall adopt rules to implement this chapter.

Sec. 85.252.  REPORT BY COMMISSION. Not later than September 1 of each even-numbered year, the commission shall submit a report to the legislature on:

(1)  the effectiveness of the program under this chapter;

(2)  any recommended changes to the program;

(3)  projected and actual program participation by purpose, gender of person receiving benefits, rates of contributions, and other information useful for research purposes;

(4)  fund balances and projections; and

(5)  outreach efforts undertaken.

SECTION 2.  This Act takes effect January 1, 2022.