

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 (1) shall be deposited in the fund; and
2 (2) may be used only for the administration of this
3 chapter.

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

6 (b) The fund consists of:

7 (1) contributions collected under this chapter;

8 (2) interest earned on money in the fund;

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

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

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

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

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

20 SUBCHAPTER C. EMPLOYER CONTRIBUTIONS

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

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

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

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

4 SUBCHAPTER D. BENEFITS; CLAIMS

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

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

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

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

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

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

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

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

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

25 Sec. 85.153. AMOUNT OF BENEFITS. (a) Except as otherwise
26 provided by this section, an employee who is eligible for benefits
27 under this subchapter shall be paid from the fund an amount equal to

1 67 percent of the average amount the employee would have been paid
2 if the employee had worked during that pay period.

3 (b) The minimum weekly benefit may not be less than \$100 a
4 week, except that if the employee's average weekly wage is less than
5 \$100 a week, the weekly benefit for that employee is the employee's
6 full wage.

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

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

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

18 SUBCHAPTER E. EMPLOYER VIOLATIONS

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

23 SUBCHAPTER F. COMMISSION DUTIES

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

26 Sec. 85.252. REPORT BY COMMISSION. Not later than
27 September 1 of each even-numbered year, the commission shall submit

1 a report to the legislature on:

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

4 (2) any recommended changes to the program;

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

8 (4) fund balances and projections; and

9 (5) outreach efforts undertaken.

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