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Articles

California Breaks New Ground: Paid Family Care Leave

10.10.2002

On September 23, 2002, California became the first state in the Nation to provide paid family care leave. Senate Bill 1661, introduced by Senator Sheila Kuehl (D-Los Angeles), broadens the State's disability insurance system to provide up to six weeks of Family Temporary Disability Insurance (FTDI) for employees who take time off work to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a newborn or adopted child.

Eligible employees will receive up to 55% of their wages, the same amount as the State Disability Insurance (SDI) benefit. The program will be financed through an increase in employee SDI contributions, which are projected to projected to average between $25 and $45 per worker a year.

Significantly, unlike the Family and Medical Leave Act ("FMLA") or the California Family Rights Act ("CFRA"), the program does not give employees the legal right to take a leave of absence under these circumstances. This means a small employer (less than 50) who is not subject to the FMLA or the CFRA still has no legal obligation to provide its employees with a leave of absence. However, if a leave is granted, the employee will be able to apply for and receive FTDI wage replacement benefits for the length of the leave, up to a maximum of six weeks. Moreover, while the new program provides paid benefits to employees taking leave to care for a registered domestic partner or to care for a child born to a registered domestic partner, the CFRA has not been amended to guarantee employees the right to such a leave. Employers may also require employees to take up to two weeks of earned but unused vacation leave prior to the employee's receipt of FTDI.

California's FTDI program will begin providing wage replacement benefits to employees taking leave on or after July 1, 2004. Tax collection to fund the program will begin on January 1, 2004.

Practice Areas

Labor and Employment