

## HB 3087 STAFF MEASURE SUMMARY

### House Committee On Early Childhood and Family Supports

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**Sub-Referral To:** House Committee On Revenue

**Meeting Dates:** 3/23, 4/6, 4/11

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#### WHAT THE MEASURE DOES:

Creates family and medical leave insurance benefits program to provide portion of wages to employees. Authorizes director of Department of Consumer and Business Services (DCBS) to adopt rules. Creates Family and Medical Leave Insurance Fund (fund). Authorizes director to set weekly benefit amount. Requires payroll contributions into fund not to exceed 0.5 percent of employee wages, to be paid by employers and employees. Creates eligibility criteria. Allows self-employed to elect coverage. Permits up to 12 weeks of benefits per benefit year and additional six weeks of benefits for parental leave. Requires 30 days' notice to employer for commencing leave; creates exceptions. Enables employee to be restored to position upon returning to work and to maintain health care benefits. Prohibits retaliatory and discriminatory actions by personnel. Specifies provisions around collective bargaining, employment benefits and disabling compensable injuries. Requires employer to display and provide notice of employee rights. Authorizes director to establish system for enforcement and appeal of contested cases involving benefits. Creates penalties for false statements or claims and remedy for erroneous payments. Directs director to submit report by January 1, 2020 and every two years. Specifies employee must work 90 days, instead of 180 days, immediately preceding the date on which leave commences. Creates effective dates.

*FISCAL: May have fiscal impact, but no statement yet issued*

*REVENUE: Revenue statement issued*

#### ISSUES DISCUSSED:

- Length of paid and unpaid family and medical leave
- Employer and employee payroll tax contribution
- Proposed definition of family
- Impact to small business costs, competition, staffing, human resources and consideration of current employee regulations (e.g., paid sick time and minimum wage)
- Caregiver expenses and lost wages
- Attending to family illnesses, caring for children and elders
- Access to paid family and medical leave for low-income workers, immigrants and people of color
- Maternal-child health benefits of increased family time
- Barriers to female participation in the workforce

#### EFFECT OF AMENDMENT:

-2 Amendment. Replaces measure. Creates family and medical leave insurance benefits program to provide portion of wages to employees. Establishes Family and Medical Leave Insurance Fund. Permits up to 12 weeks of benefits per benefit year and an additional six weeks for parental leave. Directs Department of Consumer Business Services (DCBS) to determine weekly benefit amount based on wages earned during base year. Establishes maximum weekly benefit amount of 130 percent of average weekly wage. Authorizes benefits to self-employed individual. Requires payroll contributions up to .05 percent of employee wages to be paid by employers and employees. Requires DCBS director to determine annually the amount, timing, and maximum employee contributions. Specifies actions for the Department of Revenue to enforce collection by employer or temporary employment agency. Specifies confidentiality of records. Allows benefits for leave taken in increments of less than 40 hours in certain

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circumstances. Requires employee to provide employer with prior notice, to the extent practicable but no later than 45 days after first date of illness or injury. Specifies employee shall receive benefits for period that begins on first date of illness or injury. Permits employer to require written notice at least 30 days before commencing leave; creates exceptions. Entitles employee to be restored to position or equivalent position if position no longer exists and to maintain health care benefits. Prohibits retaliatory actions by personnel. Allows leave to run concurrently with Oregon Family Leave Act. Prohibits employer from requiring employee to use paid time off as condition of using leave benefits. Requires employer to display and provide written notice to employees. Requires DCBS to establish system for enforcement and appeal of contested cases involving benefit claims. Specifies financial penalties and disqualification from benefits for noncompliance and erroneous payments. Allows self-employed to elect coverage. Directs DCBS to adopt rules. Requires report from DCBS to Legislative Assembly by January, 2020 and every even-numbered year. Directs DCBS to conduct study of amount of contributions self-employed individuals make and benefits received. Encourages sharing technology. Creates operative dates. Allows action before operative date to exercise duties. Creates effective date of 91 days after sine die.

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### **BACKGROUND:**

Certain employers in Oregon are required to provide *unpaid* family leave to their employees under the Oregon Family Leave Act (OFLA), Oregon Family and Military Family Leave Act, and the federal Family and Medical Leave Act (FMLA).

OFLA applies to employers with 25 or more employees in the current or prior year. Eligible employees may take OFLA leave for parental leave, a serious health condition, pregnancy disability leave, sick child leave, or death of a family member. Under OFLA, employees may take up to 12 weeks of leave per year. There is additional leave time available for pregnancy disability leave, parental leave, and sick child leave. An employee is eligible for benefits if they have worked at least 180 days with an average of 25 hours per week before leave commences. OFLA requires that employees give 30 days' notice to employers in advance of taking leave, unless it is impractical. Employees are entitled to return to their former jobs or equivalent job if the position no longer exists. Employers can require that employees use accrued paid leave during OFLA leave and employees may opt to use accrued paid leave. Under the FMLA, a business with 50 or more employees is required to give an employee up to 12 weeks of unpaid leave for certain family and medical reasons. Any leave taken under FMLA counts as OFLA leave, provided the employee is eligible for OFLA.

The U.S. Department of Labor reports that paid maternity leave can increase workforce participation, increase retention, and improve child health outcomes. As of 2015, 12 percent of U.S. private sector workers have access to paid family leave through their employer. California, New Jersey, Rhode Island offer paid family leave. New York and Washington D.D.C. enacted paid family leave laws that are not yet effective. These insurance systems require funds through employee payroll contributions (California and Rhode Island), employer payroll contributions (Washington D.C.) and combined employer and employee payroll contributions (New Jersey and New York).