

CHAPTER 40

LABOR AND INDUSTRY

SENATE BILL 23-046

BY SENATOR(S) Winter F., Coleman, Cutter, Danielson, Exum, Fields, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Marchman, Moreno, Priola, Rodriguez, Sullivan;
also REPRESENTATIVE(S) Duran, Bacon, Bird, Boesenecker, Brown, Dickson, English, Garcia, Gonzales-Gutierrez, Herod, Jodeh, Lindsay, Lindstedt, Mabrey, Ricks, Sharbini, Story, Titone, Velasco, Weissman, Willford, Woodrow, McCluskie.

AN ACT**CONCERNING THE CALCULATION OF A COVERED INDIVIDUAL'S AVERAGE WEEKLY WAGE FOR PAID FAMILY AND MEDICAL LEAVE BENEFITS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Paid family and medical leave benefits will be fairer and more equitable if the benefits fully reflect a covered individual's recent earnings history and mirror the wages upon which the paid family and medical leave premiums are calculated;

(b) In Colorado's changing economy, more workers find themselves relying on insecure jobs, piecing together multiple types of jobs to make ends meet, or changing jobs;

(c) Under current law, if a worker was working at a job within the base period or alternative base period but is no longer working at that job at the time the worker takes family and medical leave, the worker's wages from the previous job are not included in the calculation of the worker's family and medical leave benefit amount, which is likely to result in a lower benefit amount for the worker than would result from a benefit based on wages from all recent employment;

(d) This act clarifies that a covered individual's weekly benefit amount is based on total earnings during the individual's base period or alternative base period, rather than earnings from only the individual's current job at the time of taking leave;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) The clarification regarding the weekly benefit amount:

(I) Will promote job mobility and entrepreneurship by ensuring that paid family and medical leave wage replacement benefits are calculated based on recent earnings history, rather than being tied to earnings from specific employment at the time of taking leave; and

(II) May encourage covered individuals to change jobs or start a new business when their weekly benefit amount is not tied to one specific position but instead reflects cumulative earnings in their base period or alternative base period;

(f) This clarification will also ensure that the weekly benefit amount reflects the covered individual's true earnings and the wages on which the covered individual's premium liability is determined; and

(g) This act clarifies the intent of voters who approved the paid family and medical leave insurance program and creates greater alignment between the method of calculating benefits under the paid family and medical leave insurance program and the method of calculating benefits under the "Colorado Employment Security Act", articles 70 to 82 of title 8, Colorado Revised Statutes.

SECTION 2. In Colorado Revised Statutes, 8-13.3-506, **amend** (2) as follows:

8-13.3-506. Amount of benefits - portability. (2) The division shall calculate a covered individual's weekly benefit amount based on the covered individual's average weekly wage, ~~earned from the job or jobs from which the covered individual is taking paid family and medical leave,~~ up to the maximum total benefit established in section 8-13.3-506 (1)(b). If a covered individual taking paid family and medical leave from a job continues working at an additional job or jobs during this time, the division shall not consider the covered individual's average weekly wage earned from the additional job or jobs when calculating the covered individual's weekly benefit amount. A covered individual with multiple jobs may elect whether to take leave from one job or multiple jobs.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: March 23, 2023